85-2018 (1)

Supreme Court, U.S.
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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

ARTHUR KUNGLE, JR., Petitioner

v.

ST. JOHN'S COLLEGE, et al.

Respondents

PETITION FOR

A WRIT OF CERTIORARI

TO THE COURT OF APPEALS OF MARYLAND

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79pp

a. QUESTIONS PRESENTED:

1 Are fundamental and important rights with responsibility proper standards for all, particularly when articulated and guaranteed by our constitutions and international agreements, and can such liberty properly be denied, and are statutes that do so deny valid?

2. Is irregular procedure proper, and is dismissal thereby relying on improper precedent and respondents fraud fair and just?

3. Can appellate dismisal properly rely on irregular or improper process or procedures and on improper precedent and respondents false statements?

4. Has there been justice with law or discretion, and is right understanding limited to the superior and unavailable to us others?

LIST OF PARTIES

The parties to the proceedings below were the Petitioner Arthur Kungle, Jr., and the Respondents St. John's College, Edwin Delattre, Jerome Lapides, Samuel Kutler, Edward Sparrow, and Bruce Jacobsen. These are the parties before this Court. 28 U.S.C. §2403(b) may be applicable and thus this paper is also served upon the Attorney General of Maryland, Stephen Sachs.

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Johnson v. United States, 398 A. 2nd 354 (D.C.C.A., 1979) 47

Katzenbach v. Morgan, 384 U. S. 641 (1966) 35

Kemp-Pontiac v. S & M Constr., 33 Md. App. 516 (1976) 53

King v. So. Jersey Nat. Bk., 330 A. 2nd 1 (N. J., 1974) 32

Kolender v. Lawson, 103 S. Ct. 1855, (1983) 61

Marbury v. Madison, 5 U. S. 137(1803) 46

Martin v. Floyd, 317 S. E. 2nd 133 (S. C., 1985) 53

Milburn v. United States, 734 F. 2nd 762 (1984) 46

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State v. Schmid, 423 A. 2nd 615 (N. J., 1980), app. dis. Princeton v. Schmid, 455 U. S. 100 (1981) 33

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United States v. the Amistad,
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J. Acton, Essays in the Liberal Interpretation of History(1967) 61

M. Adler & van Doren, Great Treasury of Western Thought(1977) 56

A. Amsterdam, Void for Vaguenesss, 109 U. Pa. L. R. 67 (1960) 34

I. Berlin, Concep½ts & Categories(1979) 61

I. Berlin, Four Essays ofn Liberty(1969) 61

H. Berman, Law and Revolution(1983)40, 61

W. Burger, Interdepedence of Our Freedoms, 9 Akron L. Rev. 403 (1976) 42

J. Campbell, Lives ofthe Lord chancellors, (18510 40

B. Cardozo, Paradoxes of the Legal Science, (1928) 61

C. Clark, Simplified Pleading, 2 F. R. D. 456 (1943) 45

R. Collins, Constitutional Law, Nat'l L. J., 5-18-84 41

E. Corwin, Higher Law Backgroudn of American Consitutional Law, 42 Harv. L. R. 149 1928) 32

K. Davis, Discretionary Justice(1960) 59

Deukmajan & Thompson: All sail and no anchor, 6 Hasting Const. L.Q.(1975) 43

F, Frankfurter, Of Law and Men (1965) 61

F. Freund, NOMOS VII, Ratioonal Decsions, (1974) 61

H. Friendly, Some Kind of Hearing, 123 U. Pa. L. R. 1267 (1975) 38

L. Hand, Spirit of Liberty 61

S. Hofstader, Protecting State Procedural Rights in Federal Court:a New Role for Substantive Due Process, 30 Stanford L. R. 1019 (1978) 48, 52

A. Howard, Magna Carta (1964) 39

J. Kent, Commentaries on American Law, (1848) 40

T. Kuhn, The Structure of Scientific Revolutions (1970) 61

H, Monagham, Overbreadth, 1981
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M. Morgan, Fundamental State Rights: a new Basis for Strict Scrutiny in Federal Equal Protection Review, 17 Ga. L. R. (1982) 33

Niemeyer & Richards, Maryland Rules Commmentary (1984) 45, 46

Nowak, et al, Constitutional Law (1983) 33, 34

H. Oleck, Non-Profit Corporations (1980) 38

R. Pound, Justice according to Law, 13 Col. L. R. 696 (1913) 59

E. Rosenstock-huessy, Out of Revolution autobiography of western man (1938) 40, 61

R. Stern, Separability and Separability Clauses, 51 Harv. L. Rev. 76(1937) 34

J. Story, Equity Pleadings (1850) 45

W. Swindler, Minimum Standards of Constitutional Justice: Federal flooor and State Ceiling, 49 Mo. L. Rev. (1984) 43

W. Swindler, Sources and Documents of U.S. Constitutions(1973-79) 42

G. Webb, Plain Language Law: Civil Wrongs (Torts)(1981) 34

Criminal Wrongs (Crimes)(1981) 34

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W. Willkie, One World, (1943) 61

C. Wright, Law ofthe Federal Courts (1983) 45, 60

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ST. JOHN'S COLLEGE, et al.,

Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS OF MARYLAND

The Petitioner, Arthur Kungle Jr, respectfully requests that a writ of certiorari issue to review the judgment of the Court of Appeals of Maryland, entered in the above-entitled proceeding on March 10, 1986.

Opinion Below

The judgment of the Court of Appeals of Maryland (in No. 574, September Term, 1985) denying Petition for Writ of Certiori is not yet reported (Md. (1986)), but is included in the Appendix.

The judgment of the Court of Special Appeals of Maryland (in No. 330, September Term, 1985) is reported, 65 Md. App. 776 (1985) and the opinion, which is not reported, is included in the Appendix.

JURISDICTION

The judgment of the Court of Special Appeals of Maryland denying Petition for Writ of Certiori was entered on March 10, 1986. The Court of Special Appeals of Maryland denied Petitioner's Motion for Reconsideration on December 30, 1985, left standing thei dismissal of Petition's Appeal on November 26, 1985, and the mandate issued. That appeal was from the February 1, 1985 Circuit Court for Anne Arundel County's denial

of Motion to Alter or Amend it's judgment of Dismissal of Petitioner's Complaint on January 7, 1985, and reinforcement of that Dismissal.

This Petition is being docketed in this Court wthin 90 days, plus Sunday, of the judgment of the Court of Appeals of Maryland. The jurisdiction of this Court is invoked under 28 U.S.C. §;257(3), in order to bring all questions before this Court.

Constitutions, statutes, treaties and rules involved (restated in th appendix, excepting international agreements)

United States Constitution

Art. VI, Sec. 2

Amendments:

Art. 1

Art. 5

Art. 9

Art. 10

Art. 14

Maryland Constitution

Declaration of Rights

Art. 1

Art. 2

Art. 3

Art. 5

Art. 6

Art. 19

Art. 20

Art. 21

Art. 24

Art. 36

Art. 40

Art. 45

Statutes:

28 Edw. III, Cap. 3

(in App.Br.Apx.)

1784 Md. Law Ch. 37

(&by-laws)

Corps. and Assns.:

Art. 5-201

Educ. Art. 26-101

26-102

Md. Ann. Code, Art. 27-

577

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International Human Rights

instruments (1980)

OAS Charter and Protocol

U.N. Charter

American Declaration of

Rights and Duties of Man

Universal Declaration of

Human Rights

American Convestion on

Human Rights

Conference on Security

and Cooperation in

Europe (Helsinki

Accords)

Magna Carta, Ch. 39 and

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Rules:

Fed. R. App. P. 28(a)

Fed. R. Civ. P. 8

P. 10

P. 12

P. 41(b)

Maryland Rules (Civ. Proc.)

831(c)(4)

1031(c)

2-303

2-305

2-322

Statement of the Case

1. Before filing:

Citizen Petitioner was accepted as a student member of St John's College, Annapolis, Maryland, in 1963, and grew to participate, helpfully as possible, as an alumni member of the corporation with rights and duties.

In May 1981 an administrator pronouced exclusion from the corporate property without reasons why and with discriminatory comment about others R 96. In September 1981 petitioner responded, raising issues of denial of fundamental rights, with responsiblity, of: freedom of speech, association and religion for himself and others, and objecting to the lack of fair procedure R 98. Subsequent visits discovered little more R101-110.

In November 1981, the administrator pronounced permanent ban, finally alluding to, or charging, "abuse of freedom" of speech, writing, belief, thought, religion, association and movement R111. Petitioner's April 1982 response R113-119 was arguably long and rambling. Further requests for information on the allusions or for redress to officers or Board were ignored.

Followiing much study, and the 1984 Williamsburg meeting on developments in state constitutional law--called for beforehand by the petitioner--and finding the Maryland Rules in disarray in the state library, and failing to receive promised and to be paid for legal aid, petitioner/appellant/plaintiff

filed suit in May 1984, in Equity.

2. Before the lower court: In May 1984, there was a 1st complaint and curative amendments Record 7 and 35 (henceforth R = Record)*. Then and thereafter, consistently and with diligence, plaintiff argued for his citizenship and membership in the corporation, and against improper

* in appendix h - 1

exclusion from campus, without fair process, for exercise of fundamental rights of speech, religion, association and movement, and their reciprocal exercise by others, and against discrimination, denials, and false dealing under applicable state and federal constitutions, international agreements corporate, common and statutory law, and asked appropriate declarative, injunctive and other relief.

Defendants demurred as to cause of actions, sufficiency of facts,

claims for relief, proper forum, and laches, and argued constitutions, agreements and laws inapplicable (R 13-22). (Then and thereafter they moved to strike and dismiss.) They promised to show Plaintiff's presence was dangerous and disruptive (R-47), (but did not - and student and alumni affidavits denied allegation (R 128-130, 176-178 and appendix).

At pre-trial conference, Judge Cawood asked for a fleshing out of the Complaint with more facts. New Maryland Rules were

in effect but at first hard to procure. In August, thus there was a 2nd Amended Complaint according to pre-trial conference (and correction R 63-72, 75)* and Amendment of Caption for necessary others R 85. Plaintiff sought discovery and got a request for a protective order, without required good faith effort at resolution. Defendants continued motion practice. (R 73, 79-84).

At a September 1984 hearing on motions before Judge Wolff, the opposition

* in appendix h - 18

feigned lack of understanding of pleadings and issues. (Transcript hereafter T = Transcript). Plaintiff entered proof of their long knowledge (T 12-13). Amendment of complaint or pleading to show correspondence (R 96-122)*

Judge Wolf, having read through the complaint cited a federal case where pleadings were long and rambling and suggested getting help drafting a revision. "There are certain ways things must be stated." (T-22) The entire

* Opening cross notices in appendix k (iv) - k - 24

Complaint was struck with 30 days to revise.* Plaintiff suffered a rear-end collision by a drunk that evening, and with other disasters, this slowed efforts, and a lawyer again defaulted on promised help, nor were new books on forms for Maryland pleadings yet available.

In October, a 3rd revised complaint was;** in spite of difficulties, filed,

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* order in appendix k(ii) - k - 1
** in appendix h - 52

R-135 and a supplement to revised Complaint and to correspondence for events after filing (R-148). Defendants objected to form and denied understanding (R-140), Plaintiff attempted to properly answer their superb stonewalling (R-160).

Before Judge Wolf in January, 1985, Defendants indicated they understood at least part of the Complaint and suggested memoranda on due process, state action and their relation to the college (T 31-33), and offered to submit discreditable (T-53) affida-

vits about the Plaintiff. Plaintiff entered additional affidavits*, documents an land records showing relation to the State (R 168-178). The Judge avoided the potential embarrassment of evidence and struck the whole Complaint and dismissed the case. (T-58)**

A motion to alter or amend judgment objected to surprise, continued constitutional questioning, presented newly available corporate by-laws to compliment older charters (R 181-183). It was denied*** and order of appeal issued. Defense stoppage denied.

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* Contradicting defense allusions. k - 40

** in appendix k(ii) - k - 1+

*** in appendix k(ii) - k - 1+

3. Before the Court of Special Appeals of Maryland.

Little agreement on record was possible, but almost all necessary materials were put in extract, and the necessary parts in order in the brief. In spite of several dumb mistakes, there was no effort or intention to delay, prejudice, evade or violate courts, parties or rules. Brief was in substantial compliance, *

* And tried to follow masters of modern appellate practice.

and delivered twenty minutes late - one of the travails of individual efforts - and motion practice resumed.* Appellees, without required explanation, reduplicated most of the extract already printed, but in their brief, carefully changed dates, events an arguments to suit their argument of Plaintiff-Appellant's unintelligible and incomprehensible pleading and rule breakig, but again clearly indicated they understood that the issues raised included:

* Dismiss, dismiss, dismiss.

"...exclusion from corporate membership for exercise of freedoms...exclusion without a hearing...ability to represent others ...conflicts between 'Statutes' and our 'constitutions'..." Appellee Brief at 25-26

At oral argument in polite deference to the panel, Appellant recognized that modern judges, following Clark and Story, know more about procedure and focused on the rights and duties of man, including, as Judge Moylan asked, in "a state of nature". It was answered that natural and civil society

differ in unwritten and written rules; there is a different reach of federal and state constitution according to the involvement of the state and openess to the public, and rights and duties of and toward individuals on compus differ for members and non-members negliecting the international aspect. Judge Moylan asked if the state, or rather St. John's, wanted to respond. Judge Bell chimed in "that shows his mind set." Appellee

argued for dismissal, claiming everything was incomprehensible.

Appellant rebutted that by the evidence, and their own argument shows they have long known the issues and are more in control of the facts. Judge Garitz said, "Well, you were told their concerns." Response; But only after meetings, notice is supposed to precede a hearing on charges. The Court was reminded of the different wording of state and federal bills of rights: "everyone has a right/or duty to..."

and "Congress shall make no law", "...no state shall...". This is distinction in all fundamental international agreements. And the Guidance and Blessing of God was asked for all.

On November 26, 1984, the Maryland Court of Special Appeals dismissed the appeal, for purported imperfections of the brief, relieing on cases dealing with deceptive and improper extracts, and on the fabrications of the appellees. Appellant was suprised at this and at the court's avoidance of the very important issues presented, and at their reliance on other considerations

than what was discussed at oral argument. Thereafter appellant filed: a motion to exclude unnecessary printing costs, and a motion for reconsideration: reinstatement and review of important questions, and errors below and conflicts above. The first was ignored and the later denied and the mandate issued on December 30, 1985--even as the Year End Report of the Chief Justice came out decrying false pleading and practice.*

4. Before the Maryland Court of Appeals: Petitioner/appellant/ plaintiff petitioned the court for a writ of certiori to review the proceeding below, with regard to error, conflicts, and very important issues (following carefully

* opinion in appendix k(ii) - k - 8

the advice of Judge Levine (and Singlely) in the Maryland appellate Practice Handboook as to what is important). Respondents argued otherwise.

The Court of Appeals denied the writ on March 10,1986, not finding it desirable or in the public* interest (and avoiding 8 of 10 standards suggested by Judge Levine.)

5. Thus there is this petition to the Supreme Court of the United States of America.

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* judgment in appendix k(iii) - k - 22

h. How the Federal Questions were Presented

Petitioner consistently tried to argue that fundamental rights with responsbility and procedural fairness are protected by common, statutory, and constitutional law, and guaranteed by the state and federal constitutions, and international agreements, and where not one, then still another: in complaints R 7-9 & 35, 63-72 & 75, 135-138, & 148; Appellate brief 3, Petition for Writ 2-4 (this appendix). Suprised at having the whole complaint struck and dismissed, additional constitutional challenges were raised in the Motin to alter or amend R181-183:

> Plaintiff challenges Md. Ed. 26-101, and if necessary, Md. Code Ann. 27-577, as unconstitutional civilly or criminally, under the state and federeral constitutions, being prior and excessive restraints, vague, overbroad, & possibly more. & claims to speak for other. (cites omitted) R183

This was continued in questions presented: Appelllate brief 3, & Petition for stateWrit 2-4.

Maryland's new rules of civil procedure are based on federal rules, and petitioner relied on Clak, Story, Wright & Miller, beginning in Memorandum in support of plaintiff's response to defendant's motion to dismiss R 160-164. (An earlier memo R 30-31 was limited by family tragedy and difficulty in obtaing the new rules.) Circuit Judge Wolff based his decisions to strike and to dismiss totally on a Maryland federal case T 21, 56-57--this turned out to be: Holsey v. Collins, 90 F.R.D. 122(1981), siatinguished by petitioner in Appellant brief 13, Reply Brief 9, and Petition for Writ12-13.

Petitioner charged fraud and false dealing from the beginning R 7-9 etc., and defendants falsely argued they did not understand R 141, T 4. but it was not until they changed the dates of the entry of evidence of knowledge R 95-122, Appelleee's brief 12 (Contra: T 12-13) that it was demonstrable. Then fraud was based on Supreme Court precedent: Motion for Reconsideration 21, and, with the availability of the Chief Justic'e 1985 Year End Report, Petition for Writ 18-19.

The Maryland Court of Special Appeals introduced federal considerations by ignorig constitutionally protected rights, followed up in Motion for Re-consideration 18, & Petiton for Writ 20. They introduced a federal question of subversion, Opinion 5, followed up in Motion at 23, and Petition at 20.

They also disparaged international law and agreements and thereby reinforce the federal and international considerations due, argued from the beginning and hence followed through.

Therefore Maryland courts at all levels have entertained, and felied on, ignored, or denied these important considerations, without independent and adequate support. *

* Record of question in appendix h

j. Why this Petiton should issue:

In this case and controversy are involved elements of questions fundamental to our people and history. These are imperfectly stated and perhaps less so analyzed. But the problems of fundamental rights with responsibility, justice as fairness, the relation of process and procedure, and the availability of all of this to all our people are serious and substantial.

1. A. FUNDAMENTAL RIGHTS SHOULD BE GUARANTEED

Fundamental rights, of speech, thought, religion and association, and movement, are protected by our constitutions Hornbeck v.Somerset Co., 295 Md. 597, 641 (1983). Historically,

> Many of the rights which the Constitution of the United States protects at this moment against legislative powers were first protected by the common law against one'e neighbors. E. Corwin, Higher Law Background of American Constitutional Law 42 Harv. L. R. 149, 170 (1928)

and,

> ..one of the most important functions performed by state constitutional bills of rights which is not performed by the federal constitution is the protection of citizens against private oppression as well as oppression by the state. Pashman, J., Diss. King v. So. Jersey Nat. Bk, 330 A. 2nd 1, 18 (N.J., 1974)

This Court has recognized that states offer more protection of fundamental freedoms: Mills v. Rogers, 457 U.S. 291, 300 (1981), Pruneyard v. Robbins, 447 U.S. 573, 581 (1980) (followed: State v, Schmid,

423 A. 2nd 615 (N.J., 1980), app. dis. Princeton v. Schmid, 455 U.S. 100 (1981), Pennsylvania v. Tate, 432 A. 2nd 1382 (1981).)

When a state actively or evasively ignore or denies these gundamental guarantees, it is a violation of the 14 th Amendment's due process and equal protection clauses (petitioner declines to lecture this Court on these, but see Nowak, et al, Constitutional Law, (1983) 416, 422, 452, 457, 533, 539, 590, 816, and M. Morgan, Fundamental State Rights: a new Basis for Strict Scrutiny in Federal Equal Protection Review, 17 Ga. L. R. (1982).*

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* Often these issues are termed 1st amendment claims but it is understood that it is not the 1st amendment by itself, but by virute of the 14th amendment that it is applicable to the states. Consideration of what some term 1st amendment rights without the 1st amendment is deffered, but clearly all of these things are interrlated.

1. B. STATUTES DENYING FUNDAMENTAL RIGHTS ARE INVALID

Statutes supposedly for school security or trespass, such as Md. Educ. 26-101 and Md. Ann. Code 27-577, when denying important and fundamental rights, violate the 14th amendment (Nowak, supra, 457, 533 & 816), especially when, as here, vague, overborad, or prior restraints (Nowak, supra, 867, 871, 1021, see also: A. Amsterdam, Void for Vaguneness, 109 U. Pa. L. R. 67)1960), H. Monagham, Overbreadth, 1981 Sup. Ct. Rev. 1, R. Stern, Separatbility and Separability Clauses 51 Harv. L. Rev. 76, (1937).) Plain Language Law: Civil Wrongs (Torts) and Criminal Wrongs(Crimes) (G, Webb, 1981) should be understandable to citizens so that they will know what they should and should not do.*

*Standing to defend any of this, for self and others would be more fully argued if petition is granted.

1. C. INTERNATIONAL GUARANTEES APPLY WHEN DOMESTIC PROTECTIONS FAIL

If the state and federal constitutions do not provide individuals guarantees and standards for freedo, rights and duties, it is proper to look to international law, particularly as articulated in the agreements of the OAS and UN. Thisis the obverse of the principle that it is not necessary to look to international instruments when our constitution provides protections or standards Katzenbach v. Morgan, 384 U.S. 641, 646 n. 5 (1966), Hurd v. Hodges, 334 U.S. 24, 28 n. 4 (1948).

International agreements are operative under the Helsinki Accord, Sec. VII (this appendix), and the interamerican system (Handboookof existing Rules Pertaining to Human Rights in the Interamerican Sytem, OAS (1983). Also involved are: U.S. Const. Art. VI, Sec.2, and the privileges and immunites clause 35

of the 14th amendment--for the 19th century Courts can not have included in thier denials of aspects of national citizenship what was not articulated or agreed on until the 20th century. (It is also better exhaust domestic remedies before turning elsewhere.)

1. D. GOVERNEMENTS MUST PROTECT FUNDAMENTAL & UNIVERSAL RIGHTS

This Court has recognized that important and fundamental principles are universal and deserving of protection, whether articulated or not: UNITED States v. the Amistad, 15 Pet. 518, 594 (1841)(universal freedom and equlaity), United Statees v. cruikshank, 92 U.S. 542, 551 (1875)(association, as a right not "granted" to the people --or created--but one long before our constitutions, with a duty of subsequent

states to protect it)(followed: Spayd v. Ringling Rock Lodge, 270 Pa. 67, 113 A. 70 (1921)(and not to be denied by government, or organization or individual).

It is the sorry history of this nation that the states did not properly protect all their citizens and their rights that made the 14th amendment necessary, and throughmuch difficulty, the federal bill of rights became thereby applicable to the states (as this Court knows by heart).

In all of this important principles are in conflict and at stake.

2. A. FAIR PROCEDURE SHOULD BE BASIC

Important, too, is fair procedure, whether called due process or natural justice. It applies to every level of our society, including colleges and corporations.* Compare: H. Friendly, Some Kind of Hearing 123 U. Pa. L.R. 1267 (1975), and H. Oleck, Non-Profit Corporations, Ch. 28, Disciplinary and Associational Rights: for almost every element of a fair hering, more familiarly stated in criminal proceedings, in the U.S. Const. 5th amendment(parallel Md. Const. Dec. Art. 21), there is a domestic and old English case (supposedly guarnteed by Md. Const. Dec. Art. 5). See also: Dartmouth College v. Woodward, 17U.S. 518, 700 (1819),

* Other related matters of corporate misdeeds, acts ultra vires or against the members are related and subsumed

2. B. INTERNATIONAL REDRESS & PRINCIPLES APPLY IN ABSENCE OF DOMESTIC ONES

Maryland's putative guarantees:

> That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived ofhis life, liberty or property, but by the judgment of his pers, or by the Law of the Law of the Land. Art. 24, Md. Const. Dec. of Rights

> That every man, for any injury done to him in his person or property, ought to have remedy by the course of the Law of the Land, and ought to have justice and right, freely without sale, fully without any denial, and sepeedily without delay, according to the Law of the Land. Art. 19, Md. Const. Dec. of Rights

are translations of Ch. 39 & 40 of Magna Carta (A. Howard, Magna carta, 43(1964) (the latter clause as improved by Coke).

Fair proceedings ought to be guaranteed by common law, statute, and constitutions, and where not by them, then by international instruments: for example: the American Declaration of Rights and Duties of Man Art. I, II, XVIII, XXV, XXVI(innocence presumed).

Berrien v. Politzer, 83 U.S.App. 23 (1947), Niner v. Hanson, 217 Md. 298 (1958), J, Kent, Commentaries on American Law (1848) II, 301 n.a, citing to Lord Camden in Shipley's Case(only accessible in a few editions of Campbell's Lives of the Lord Chancellors, Appellant Reply Apx. 1, and this appendix: the Justices of the United States Supreme Court are similarly situated and succssors to eartthly Lord Chancellor Camden, in our highest equity court.) *

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* (See also: E. Rosenstock-huesy, Out of Revolution: autobiography of western man, 552 (1938), and H. Berman, Law and Revolution: The Formation of the Western Legal Tradition, 294 (1983).

1/2 A. THESE PROBLEMS WILL COME AGAIN

'In less than two centuries, the people of the 50 states have adopted more than 130 constitutions, and have copiously amended them in the intervals between their adoptions.'
William F. Swindler
Are state constitutional rights "fundamental" rights? in what sense, if any, are they essential? Things truly fundamentaly are absolutely necessary. They are the sort of things for which peopple die. Notwithstanding the phoenix-like resurection of interest in state bills of rights, it would be suprising to find anyone in 1984 willing to sacrifice life and limb for this cause. R. Collins, Constitutional Law, Nat'l L. J., 5-18-84, 14

At 35, Prof. Collins tells both of the passsing of Dean Willian Swindler on May 15 1984, and of Justice Stevens' called to look to the state constitutions, 52LW 3824, 5-15-84. Across the page Justices White and Brennan note the problem substantially different standards in different courts.

Some states and people may not mean everyone to have the same rights --and perhaps term them privileges. Such seems to have been the original intent of Maryland's founders:

> Historians have pointed out that the Maryland Declaration (of 1776) embodied the prevailing Whig theory of government by trustee rather than by agent--i.e.. representatives were those qualified to determeine what was best for their constituents rather than being instruments for directly carrying out the desires of their constitutents. This elitist theory was not so much refuted as ignored in the later Jacksonian age. W. Swindler, Sources and Documents of U.S. Consitutions, (1973-1979) IVa (Md), 392

Respect for the states isimportant in our federal system, but there is an Interdependence of Our Freedoms (W. Burger, 9 Akron L. Rev. 403 (1976)). How sure are our foundations if fundamentals are insubstantial? Fed. R. C. P. 8(f), Md. R.2-303(e)

(W. Swindler, Minimum Standards of Constitutional Justice:Federal floor and State ceiling, '49 Mo. L. Rev. 1 (1984), Deukmajan & Thompson: All sail and no anchor, 6 Hastings Const. L. Q. 975 (1979))

1/2 B. THESE PROBLEMS ARE PRESENT NOW

There are many current disputes on college campuses about rights and duties with and without the law and procedure, relieing ultimately on several of these same cases, See Universities use stronger tactics Christian Science Monitor, March 20-21, 1986. What does it tell the citizens of tommorrow if none of this matters?

3. A. COMMON PROCEDURE RELIES ON FEDERAL PROCEDURE

Maryland's new civil rules follow federal rules closely, thus:

Md. R. Civ. P.	Fed. R. Civ. P.
2-303 b & c	8 e
2-303 d & e	10 c & f
2-305	8 a
2-322 b	12 b
2-322 d	12 c
2-322 e	12 f & 41 b
2-322 f	12 g

And modern pleading may begin with:

> §23. An original Bill, praying relief, is (as we have seen) founded upon some right claimed by the party plaintiff, in opposition to some right claimed, or wrong done, by the party defendant. In order to enabel the Court to understand the case, and to administer the proper remedial justice, as well as to apprize the opposite party of the nature of the claim, and of the redress asked, and to enable him to make the proper defence thereto, it would seem indepensable, that the Bill should contain a clear and exact statement of all the material facts. It should, therefore show, with reasonable certainty, the rights of the plaintiff; the manner, in which he is injured; the person

> by whom it is done; the material circumstances of the time, place, manner, and other incidents; the particulars, in which he wants the assistance of the Court, or (in other words) the relief, which he seeks; the prayer therefor, and also that the defendant may answer upon oath the matter charged against him; and lastly, that the case as stated, and the relief as asked, are properly within the jurisdiction of a Court of Equity.
> J. Story, Equity Pleadings Ch. II (1850)

But, as he said, things got complicated, and there was a need for Simplified Pleading(C. Clark, 2 F.R.D. 456(1943).

> A complaint is sufficient if it meets the test of rule 8(a), though it would be subject to demurer in state courts for failing to set forth the detailed facts cherished in the state system. C. Wright, Law of the Federal Courts(1983)435

Thus the difference between Fed. R.C.P. 8(a) and Md. Rule 2-305 is that the one

> requires that a pleading contain a short plaint statement of the claim showing that the plaintiff is entitled to relief, (and the other) requires a statement of facts essential to state a cause of action. Niemeyer & Richards, Maryland Rules Commentary 135 (1984)

But documents were introduced and referred to (id, as 132) that showed fundamental and important rights were at stake, and forthe denail of these there should be a remedy (Marbury v. Madison, 5 U.S. 137(1803) & Co).

The lower court was wrong not to consider the valid and federal claims separately, not to strike only the excess, not to proceed on what was understood or known, and to dismiss,with reliance on hearsay, when there were facts to support the claim.*

* Bolding v. Holshouer, 575 F.2nd 461, 464, cert. denied, 439 U.S. 837 (1978), Atwood v. Humble Oil. 243 F. 2nd 885, 888 (1957), Simmons creek Coal v. Doran, 142u.s. 417, 438 (1891), Milburn v. United States, 734 F. 2nd 762, 765 (1984), Hospital Bldg Co. v. Rex Hospital Trustees, 425 U.S. 738, 746 (1975).

The proceeding in the lower court also prove the truth of the warnings of Clark and Wright about: changing judges, no discovery, shaddow boxing, impossible pleading requirements, facts more in the control of the defendants. That aosl raises the abuse of discretion standards in Johnson v. United States, 398 A. 2nd 354, 361-367 (D.C.C.A., 1979)(appellate courts must determine:

> whether the exercise of discretion was in error, and, if so, whether the impact of that error requires reversal. at 367)

With such serious issues and conflicts Maryland's appellate courts went along.

After the Williamsburg meeting petitioner encouraged better distribution of state rules of procedure. West Publishing and the Library of Congress heeded this. But federal rules--derived from equity and common dialogue--offers the best basis

for comparison. There will be more inter-related study and reliance. The Supreme Court is justly asked about Protecting state procedural rights in Federal Court: a new role for substantive due process (S. Hofstader, 30Stanford L. R. 1019(1978)).

3. B. IMPROPER FEDERAL PRECEDENT IS UNFAIRLY RELIED ON

The good Judge Wolff rested the case on a Maryland federal decision, Holsey v.Collins, 90 F.R.D. 122 (1981). But in that case Holsey had much pleading experience, did not follow the Court's directives, and the federal rules were long standing, and his claims seem to have been very long (Holsey at 127). In this case plaintiff/petitioner had no legal experience but reading, the court's order (R 134) was general and written by defense counsel, the claims were 4 to 10pages--increased at the request of

Judge Cawood, decreased in an attempt to follow Judge Wolff, and the Maryland Rules were changing. In addition, Holsey relies on Bolding v. Holshuser, infra. Holsey at 127, but that court found that complaint partly sufficient, Bolding at 464, and discovery was deemed better than pleading for fact finding and issue defeinition, Bolding at 465. Those considerations were ignored in this case. *

It is important to consider whether state courts, with similar procedure mostly, can properly rely on federal precedents so different and in conflict.

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* It was strange too that Judge Wolff cited plaintiff/appellant/petitioner for a repetitive complaint, when on the one hand there were different basis for action and relief, and on the other that adoption by reference is permitted by modern rules of pleading, Md. Rule 2-303(d), Fed. R.Civ. P. 10(c).

4. A. APPELLATE DECISION FURTHER DENIED DUE PROCESS AND EQUAL PROTECTION

In the Maryland Court of Special Appeals, appellant/petitioner continued his fundamental questioning, and appellees thrice moved to dismiss and argued: No following the rules or intelligibility. They helped to sustain that fiction by cleverlychanging the date for entry into evidence of the correspondence showing prior knowledge and understanding:

In the meantime, on Sept. 23, 1984, Kungle filed an "Amendment of Complaint or Pleadings to Show Correspondence".. presenting some 30 pages of attach-ments.... Appellee's Brief 12	Let the record reflect I've been given what is called an amendment of com-plaint or pleadings to show correspondence and about 12 to 20 pages of attachments.. Defense Counsel T-12-13, Hearing 9-20-84

In it's opiinion, the middle court, for form over substance, accepted mis-statements statements as true. Corrections:

a. there were 3 sets of mostly consistent pleading to attempt to please 2 judges;

b. at every level a good part of this has been understood by lawyers and laymen;
c. appeal was of both the denial of the motion to alter or amend judgment and of the orignial judgment/order, Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 61 (1982), Unnamed Atty v. Atty Greivaance Com,33 Md . App. 473, 486 (1985);
d. the brief was in required order and the extract almost the complete record (recopied without required explanation by appellees--and motion to exclude such costs ignored later). The middle court held the appellant to blame:
a. for mistakes--invertingpages in the statement of facts;
b. for not following the rules--not numbering the questions presented;
c. for trying to follow the rules--citing to both record and extract page numbers (the former required by Md. Rule

1031(c)(4) and the other by common sense --Md. Rule 828(c)(4) sensibly calls for reference to the extract);

d.for not following what the rules should be--ommitting section headings in the argument (but compare the lack of guidance Md Rule 1031(c)(5) offers in comparison with Fed. R.App. P.28(a)(4).)

If the protections of the 14th amendment's due process and equal protection clauses are applicalbe to the states in criminal cases and at at a trial level, State Procedural rules,infra, should be in civil cases and at appellate level, particularly where fundamental principles and rights are at stake, and alsternatively, where state and federal procedures are similar or the same.

4.B. APPELLATE DECISION RELIED ON IMPROPER PRECEDENT AND FRAUD OF RESPONSDENT/APPELLEES

The cases the court cited are very distinguishable. Harman v.Harman, 61 Md App. 554, 558 (1985) involved lack of necessary references in statement of facts to evidentiary bases in record and transcript. In appellant's brief there were over 40 references. Kemp-Pontiac v. S & M Constr. 33 Md. App. 516, 522 (1976) involved serious deficiencies with regard to the record --not even suggested here. Nor were the appellees prejudiced, Burrel v. Frisby,212 Md 181, 184 (1957), and they had not difficulty ascertaining the questions on appeal, Martin v. Floyd, 317S.E.2nd 133, 135 (1985), even if they avoided them. Appellee Brief at 25-26. But as ColonialCarpets v. Carpet Fair, 36 Md. App. 583, 593(1976) strongly notes: Kemp, at 523,

> involvedthe seemingly attempted deception (which) is successfull could have resulted in a decision of this Court based on a false premise thereby causing undue damage to an innocent party.

In this case, it is the appellees/ respondents who practiced and achieved the deception, by fabricating and changing dates and fibbing about not knowing what they had received or written (See Hunter v. Baker, 154 Md. 307, 331 (1928)), which was relyed on Maryland courts at all levels.* But

> Fraud will vitiate any, even the most solemn transactions. the Amistad Case at 594.

Why should fibbing by counsel for a client be wrong in a criminal case, Nix v. Whiteside __U.S.__(1986) 54 LW 4194 (1986), and fibbing by both not matter in civil cases?

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* Other fibs, whether promises to talk or train workers and such are true but difficult to prove when no witnesses could be present. Saying "trust me" encourages reliance and is another avenue of fraud. Presentation of a fuller pattern awaits future presentation.

4. C. APPEALS COURT DENIED INTERNATIONAL LAW

The chart that the court refers to in their opinion is reduced copy of petitioners original comparison of the federal Bill of Rights most important provisions with the corresponding provisions in each state's constitution and of all the states with each other. It was available for use at oral argument. Even if Maryland courts can ignore their own constitution, they should follow the federal constitution. And even if American courts can avoid our constitutions, they should still respect the international agreements which cost so many millions lives to achieve. Justice Story's declaration that men are free and equal finds expression in the Universal Declaration of Human Rights, Art. 1 (earlier version by one G. Mason, 1776).*

If this petition is granted better analysis would be.

4. D. APPEALS COURT AVOIDED FEDERAL CONSITUTIONAL DUTY

It is wrong to rcognize a grievance for exclusion and purportedly search the record for facts but not for the violation of constitutional rights. Brookhart v. Janis, 384 U.S. 1, 4 (1965), Cox v. Lousisiana 379 U.S. 536, 545 (1964), Reese v. State, 17 Md.App. 73, 81 (1970).

4. E. APPEALS COURT INTRUDED INTO

It is wrong to see subversive activity in this effort to advance law and liberty and to improve and not to overthorw the government. Pennsylvania v. Nelson, 350 U.S. 497 (1956), United states v. Sinclair, 321 F. Supp. 1074 (1971). Unless,

> Thought is subversive and Revolutionary....
> B. Russell, in adler & van Doren, Great Treasury of Western Thought, 907 (1977)

5. THE STATE'S HIGHEST COURT IMPROPERLY AVOIDED ALL OF THE ABOVE AND THEREBY SUPPORTS THE STATE'S UPPER CLASS

The Maryland Court of Appeals did not find these matters in the public and denied Writ, this in spite of petitioner trying to follow Levine,J.*

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* Error on the part of a lower court is itself not sufficenit to cary the day. Instances may arise, for example, where we grant a petition even though we agree compeletely with the holding of the Court of Special Appeals. Conversely, petitions may be denied even though we think the case was decided incorrectly at the trial lvele and affirmed by the Court of Special Appeals. if, in any event, we regard the case as lacking in public interest. If I were asked for a definition of the statutory test, "public interest," I would respond with "public importance." At any rate, this is the term frequently heard in our conference. By public importance, we mean issues that are important to the publci, no merely to the parties involved in the case.

Public interest or public importance, if you will, are, of course relative terms, and there is no magic formula by which the Court can determine how to apply the test in a given case. A wide variety of considerations enters into the equation. A common example of public iimportance is a case involving the constituionality--state or federal--of a statute, particularly where the lower court, whose decision we are being asked to review, has declared the statute unconsitional. A related issue is one involving the denail of important rights under the federal or state constitutions.

Cases calling for construction of statutes, and even localordinancesor administrative regulations, particularly where state or local government is a party or expresses an interest are prominent candidates for a writ of certiorari. Additional categoriesin which certiaoari is frequently granted are those presenting legal isues of first impression in Maryland. Other instnaces in which we have granted ceertiori from time to time are: cases in which we think the Court of Special Appeals' holding should be expanded or modified; cases in which there is a conflict in the holding of separate panels of the Copurt of Special Appeals; cases presenting disputes in regard to the rules of procedure; casese presenting issues which are idential or similar to an issue presented in a case already pending in the Court of Appeals; and finally, cases involving an issue for which there is already a Maryland precedeent, whic, however requires reexamination because of changes in political, social or economic conditions. Invariably, a combination of two or more factors is present in cases which we review. It follow that one should advance all possible reason tending to demonstrate the importance of the issues presnted by the petition. in P. Sandler, Maryland Appellate Practice Handbook, B-203-5 (1977)

This Court may not wish to question Maryland's most distinguished courts and college. But then Justice according to Law (R. Pound, 13 Col. L. R. 696 (1913) becomes "Justice without law" (id) or law without justice.

> Where law ends, discretion begins, and the exercise of discretion may mean either benefiecence or tyranny, either justice opr injustice, either reasonableness or arbitrariness. K. Davis, Discretionary Justice, 1 (1960)

Another way oflooking at this is that it has ben going on for centuries. Only the best, the right people, in proper place, are fit to decide what is right, and true, and comprensible, and worthy to be included--this is an ongoing westeern tradition (See; R. Williams, Keywords (1976, 1983) on inter-related: class, educated, elite, intellectual, rational, revolution, stanadards and status. See also:

Charter of St John's College, 1784 Md. Law Ch. 37). It is an old Maryland tradition too:

> The Revolution in Maryland stimulated minds to weigh and re-examine the old institutiions. The measuring rod was republicanism. Definitions of republicanism varied. To some it means total freedom of expression for all classes whereformerly only the aristocraats had license to think, besepeak themselves, and act on public matters. To others, only those of education, wealth and social position were capable of constuctive thought and leader-ship. Walsh & Fox, Maryland, a history, 17 (1983)

6. THE WRIT SHOULD ISSUE TO BRING THESE MATTERS BEFORE THE COURT: FIAT JUSTIA, NON RUAT COELUM.

In order to bring these questions before the Court, an appeal was not taken, and this petition should be granted. (C. Wright, supra, 734)

As one not formally trained in law, but understanding the worth of our valued traditions, and in order not to complicate or confuse unnecessarily important issues, (Kolender v. Lawson, 103 S. Ct. 1855(1983)) this petitioner does not wish to represent himself in speaking before the Supreme Court, but would somehow find someone proper.

May Liberty* and Law advance, undeer God.

Fiat justia, non ruat coelum.

* Petitioner reserves a fuller discussion on liberty and intelligibility til decision on this petition, but would cite to: J. Acton, "History of Freedom in Antizuity and Christianity", Esssays in the Liberal Interpretation of History,(1967), I. Berlin, Four Essays on Liberty (1969), "From Hope and Fear Set Free" in Concepts and Categories (1979), B. Cardozo, Paradoxes of the Legal Science (1928), P. Freud, "Rationality in Judicial Decisions", NOMOS VII,Rational Decisions, 117(1974), F. Franfurter, "The Paths must be kept open" Of Law and Men (1965), L. Hand, The Spirit of Liberty, T. Kuhn, The Structure of Scietific Revolutions (1970), Rostensock Huessy, supra, UN Commission on Human Rights, The People Shall Judge, W. Willkie, One World (1943).

CONCLUSION

For these various reasons, this Petition for Certiori should be granted. Alternatively, this Petition should be granted, the lower decisions vacated, and the case remanded. Alternatively, this Petition asks summary reversal of the previous decisions.

Respectfully submitted,

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85-2018 (7)

Supreme Court, U.S.
FILED
JUN 9 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

ARTHUR KUNGLE, JR., Petitioner

v.

ST. JOHN'S COLLEGE, et al.

Respondents

ON WRIT OF CERIORARI TO THE COURT

OF APPEALS OF MARYLAND

APPENDIX TO PETITION FOR WRIT:

f. CONSTITUTIONAL PROVISIONS,

STATUTES, TREATIES AND RULES

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6 pp

United States Constitution

ARTICLE VI.

Sec. 2. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme law of the Land;and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Amendments:

(Article I.)

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or the press; or the right of the people peaceable to

assemble, and to petition the Government for a redress of grievances.

(ARTICLE V.)

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

(ARTICLE IX.)

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

(ARTICLE X.)

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

(ARTICLE XIV.)

Section I. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United

States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Maryland Constitution

DECLARATION OF RIGHTS

We, the People of the State of Maryland, grateful to Almighty God for our civil and religious liberty, and taking into our serious consideration the best means of establishing a good Constitution in this State for the sure foundation and more permanent security thereof, declare:

Article 1.

That all Government of right originates from the People, is founded in compact only, and instituted solely for the good of the whole; and they have, at all times, the inalienable right to alter, reform or abolish their Form of Government in such manner as they may

deem expedient.

Article 2.

The Constitution of the United State, and the Laws made, or which shall be made, in pursuance thereof, and all Treaties made, or which shall be made under the authority of the United States, are, and shall be the Supreme Law of the State; and the Judges of this State, and all the People of this State, are, and shall be bound thereby; anything in the Constitution of Law of this State to the contrary notwithstanding.

Article 3.

The powers not delegated to the United States by the Constitution thereof, nor prohibited by it to the people thereof.

Article 5.

That the Inhabitants of Maryland

are entitled to the Common Law of England, and the trail by Jury, according to the course of that Law, and to the benefit of such of the English statutes as existed on the Fourth day of July, seventeen hundred and seventy-six; and which, by experience, have been found applicable to their local and other circumstances, and have been introduced, used and practiced by the Courts of Law or Equity; and also of all Acts of Assembly in force on the first day of June, eighteen hundred and sixty-seven; except such as may have since expired, or may be inconsistent with the provisions of this Constitution; subject, nevertheless, to the revision of, and amendment or repeal by, the Legislature of this State. And the

Inhabitants of Maryland are also entitled to all property derived to them from, or under the Charter granted by His Majesty Charles the First to Caecilius Calvert, Baron of Baltimore.

Article 6.

That all persons invested with Legislative or Executive powers of Government are the Trustees of the Public, and, as such, accountable for their conduct: Wherefore, whenever the ends of Government are perverted, and public liberty manifestly endangered, and all other means or redress are ineffectual, the People may, and of right ought, to reform the old, or establish a new Government; the doctrine of non-resistance against arbitrary power and oppression is absurd,

slavish and destructive of the good and happiness of mankind.

Article 19.

That every man, for any injury done to him in his person or property, ought to have remedy by the course of the Law of the Land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the Law of the Land.

Article 20.

That the trial of facts, where they arise, is one of the greatest securities of the lives, liberties and estate of the People.

Article 21.

That in all criminal prosecutions, every man hath a right to be informed of the accusation against him; to have a copy of the

Indictment, or charge, in due time (if required) to prepare for his defence; to be allowed counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses for and against him on oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought to be found guilty.

Article 24.

That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land.

Article 36.

That as it is the duty of every

man to worship God in such manner as he thinks most acceptable to Him, all persons are equally entitled to protection in their religious liberty; wherefore, no person ought by any law to be molested in his person or estate, on account of his religious persuasion, or profession, or for his religious practice, unless, under the color of religion, he shall disturb the good order, peace or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil or religious rights; not ought any person to be compelled to frequent, or maintain, or contribute, unless on contract, to maintain, any place of worship, or any ministry; nor shall any person, otherwise competent, be deemed incompetent as a

witness, or juror, on account of his religious belief; provided, he believes in the existence of God, and that under His dispensation such person will be held morally accountable for his acts, and be rewarded or punished therefor either in this world or in the world to come.

Nothing shall prohibit or require the making reference to belief in, reliance upon, or invoking the aid of God or a Supreme Being in any governmental of public document, proceeding, activity, ceremony, school, institution, or place.

Nothing in this article shall constitute an establishment of religion.

Article 40.

That the liberty of the press

ought to be inviolably preserved; that every citizen of the State ought to be allowed to speak, write and publish his sentiments on all subject, being responsible for the abuse of that privilege.

Article 45.

This enumeration of Rights shall not be construed to impair or deny others retained by the People.

Statutes: 1784 Md. L. Ch. 37

Charter of St. John's College

WHEREAS, institutions for the liberal education of youth in the principles of virtue, knowledge and useful literature are of the highest benefit to society, in order to train up and perpetuate a succession of able and honest men for discharging the various offices and duties of life, both civil and religious, with usefulness and reputation, and such institutions of learning have accordingly been promoted and encouraged by the wisest and best regulated States. And whereas, it appears to this General Assembly that many public spirited individuals, from an earnest desire to promote the founding a college or seminary of learning on the Western Shore of this

State have subscribed and procured subscriptions to a considerable amount, and there is reason to believe that very large additions will be obtained to the same throughout the different counties of the said Shore if they were made capable in law to receive and apply the same towards founding and carrying on a college or general seminary of learning with such salutary plan and with such legislative assistance and direction as the General Assembly might think of, and this General Assembly, highly approving those generous exertions of individuals, are desirous to embrace the present favorable occasion of peach and prosperity for making lasting provisions for the encouragement and advancement of all

useful knowledge and literature through every part of this State.

BE IT ENACTED:

II. That a college or general seminary of learning by the name of "St. John's College" be established on the said Western Shore upon the following fundamental and inviolable principles,; namely, first, the said college shall be founded and maintained forever upon a most liberal plan for the benefit of youth of every religious denomination, who shall be freely admitted to equal privileges and advantages of education and to all the literary honors of the college, according to their merit without requiring or enforcing any religious or civil test, or urging their attendance upon any particular religious worship or

service other than what they have been educated in or have the consent and approbation of their parents or guardians to attend; nor shall any preference be given in the choice of a Principal, Vice-Principal or other Professor. Master or Tutor in said college on account of his particular religious profession, having regard solely to his moral character and literary abilities and other necessary qualifications to fill the place for which he shall be chosen.

IV. That the governing body, or board of said College shall consist of not more than forty not less than thirteen Visitors and Governors, to be chosen and to hold office in such manner as the said Visitors and Governors may determine and prescribe by their fundamental ordinances;

provided, however, that the Governors of the States of Maryland and New Mexico shall act ex officio as two of the total number of Visitors and Governors of said college during their respective terms in said offices; and that the said Visitors and Governors and their successors duly chosen shall be and are hereby declared to be one community, corporation and body politic to have continuance forever by the name of

ST. JOHN'S COLLEGE

and by the same name they shall have perpetual succession.

XIV. That a majority of the said Visitors and Governors for the time being and duly assembled at any meeting upon due notice given to the whole body of Visitors and Governors shall have full power and authority

to make fundamental ordinances of the government of the said college and the instructions of youth as aforesaid, and by these ordinances to appoint such a number of their own bed not less than seven as they may think proper for transacting all general and necessary business of the said seminary and making temporary rules for the government of the same; and also by the said fundamental ordinances to delegate to the principal, vice-principal and professors such powers and authorities as they may think best for the standing government of the said seminary and of the execution of the ordinances and rules of the same, provided always that they be not repugnant to the form of government of any law of this State.

XVI. That the ordinances which shall be fro time to time made by the Visitors and Governors of the said college and their successors with an account of their other proceedings and of the management of the estate and moneys committed to their trust, shall when required be laid before the General Assembly for their inspection and examination, but in case at any time hereafter through oversight, or otherwise through misreprehension and mistaken construcitons of the powers, liberties and franchises in this Charter or Act of Incorporation granted or intended to be granted any ordinance should be made by the said corporation of Visitors and Governors or any matters done and transacted by the corporation contrary to the tenor

hereof, it is enacted that although such ordinances, acts and doings shall in themselves be null and void, yet they shall not, however, in any courts of law, or by the General Assembly, be deemed, taken interpreted or adjudged into an avoidance of forfeiture of this Charter and Act of Incorporation, but the same shall be and remain unhurt, inviolate and entire unto the said corporation of Visitors and Governors in perpetual succession, and all their acts conformable to the powers, true intent and meaning hereof shall be and remain in full force and validity, the nulhty and avoidance of such illegal acts to the contrary in any wise notwithstanding.

Policy on Bylaws

Article I

THE COLLEGE

(1) St. John's College is by its Charter a legal entity, carrying as its functions in Annapolis, Maryland, and in Santa Fe, New Mexico. Under the Charter of the College, all power, authority, and responsibility pertaining to the College are vested in the Visitors and Governors.

(2) The College consists of the following: The Board of Visitors and Governors, the Faculty, the Students, the Graduate Institute, the Alumni and the Staff, and other members who may be named from time to time by the Board of Visitors and Governors.

Md. Corps. & Ass'ns.

S 5-201. Application of Maryland General Corporation Law

The provisions of the Maryland General Corporation Law apply to nonstock corporations unless:

(1) The context of the provisions clearly requires otherwise; or

(2) Specific provisions of this subtitle or other subtitles governing specific classes of corporations provide otherwise. (An. Code 1957, art. 23, S 132; 1975, ch. 311, S 2; 1976, ch. 576, S 2.)

Md. Educ. Art.

Subtitle 1. School Security

§26-101. Disturbing activities at school or college; molesting or threatening students.

(a) Wilful disturbance of school activities prohibited. - A person may not willfully disturb or otherwise willfully prevent the orderly conduct of the activities, administration, or classes of any institution of elementary, secondary, or higher education.

(b) Molesting or threatening students or school personnel prohibited. - A person may not molest or threaten with bodily harm any student, employee, administrator, agent, or any other individual lawfully on the grounds or in the immediate vicinity of any institution

of elementary, secondary, or higher education.

(c) Injunction. - In addition to the penalties provided in this section or in Article 27, S 577A of the Code, on application by the governing board of any institution of elementary, secondary, or higher education, the circuit court of the county in which the institution is located may issue an injunction restraining any specific activities that violate this section.

(d) Criminal penalty. - Any person who violates any provision of subsection (a) or (b) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000, imprisonment not exceeding 6 months, or both. (An. Code 1957, art. 27, § 123A; art. 77,

§ 96; 1978, ch. 22, & 2.)

§ 26-102. Trespass on the grounds of a public institution of elementary, secondary, or higher education.

(a) Denial of access to school grounds. - The governing board, president, superintendent, or principal, or any public institution of elementary, secondary, or higher education, or a person designated in writing by the board or any of these persons, may deny access tot he buildings or grounds of the institution to any person who:

(1) Is not a bona fide, currently registered student, or staff or faculty member at the institution, and who does not have lawful business to pursue at the institution; or

(2) Is a bona fide, currently registered student at the institution and has been suspended or expelled from the institution, for the duration of the suspension or expulsion; or

(3) Acts in a manner that disrupts or disturbs the normal educational functions of the institution.

(b) Staff may demand identification. - Administrative personnel and authorized employees of any public institution of elementary, secondary, or higher education may demand identification and evidence of qualification from any person who desires to use or enter the premises of the institution.

(c) Agreement with law enforcement agencies. - The governing

board of any public institution of elementary, secondary, or higher education may enter into an agreement with appropriate law enforcement agencies to carry out the responsibilities of this section when:

(1) The institution is closed; or

(2) None of the persons designated in subsection (a) of this section are present in the buildings or on the grounds of the institution.

(d) Penalty. - A person is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1000, imprisonment not exceeding 6 months, or both if he:

(1) Trespasses on the grounds of any public institution of elementary, secondary, or higher

education;

(2) Fails or refuses to leave the grounds of any of these institutions after being requested to do so by an authorized employee of the institution;

(3) Willfully damages or defaces any building, furnishing, statue, monument, memorial, tree, shrub, grass, or flower on the grounds of any of these institutions. (An. Code 1957, art. 27, § 577B; 1978, ch. 22, § 2; 1980, ch. 66; 1981, ch. 467; 1983, ch. 442.)

Md. Am. Code Art.

12 § 577. Wanton trespass upon private land or vessel; legislation by Baltimore City prohibiting denial of accommodations, etc., by public places.

(a) (1) Any person or persons who remains upon, enters upon or crosses over the land, premises or private property, including boarding any boat or other marine vessel, of any person or persons in this State after having been duly notified by the owner or his agent not to do so is considered guilty of a misdemeanor, and on conviction shall be fined not more than $500.

(2) This section may not be construed to include within its provisions the entry upon or crossing

over any land when such entry or crossing is done under a bona fide claim or right of ownership of said land, it being the intention of this section only to prohibit any wanton trepass upon the private land of others.

American Declaration of Rights
and Duties of Man

Article I. Every Human Being has the right to life, liberty and the security of his person.

Article II. All persons are equal before the law and have the rights and duties established in this declaration, without distinction as to race, sex, language, creed or any other factor.

Article III. Every person has the right freely to profess a religious faith, and to manifest and practice it both in public and in private.

Article IV. Every person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever.

Article XVIII. Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights.

Article XXV. No person may be deprived of his liberty except in the cases and according to the procedures established by preexisting law.

No person may be deprived of liberty for nonfulfillment of obligations of a purely civil character.

Every individual who has been deprived of his liberty has the right to have the legality of his detention ascertained without delay by a court,

and the right to be released. He also has the right to humane treatment during the time he is in custody.

Article XXVI. Every person accused of an offense has the right to be given an impartial and public hearing, and to be tried by courts previously established in accordance with pre-existing laws, and not to receive cruel, infamous or unusual punishment.

Helsinki Accord VII

In the field of human rights and fundamental freedoms, the participating States will act in conformity with the purposes and principles of the Charter of States will act in conformity with the purposes and principles of the Charter of the United Nations and with the United Nations and with the Universal Declaration of Human Rights. They will also fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound.

Universal Declaration of Human Rights

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article I

All human beings are born free

and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

MAGNA CARTA

39 No free man shall be taken, imprisoned, disseised, outlawed, banished, or in any way destroyed, nor will We proceed against or prosecute him, except by the lawful judgment of his peers and by the law of the land.

40 To no one will We sell, to non will We deny or delay, right of justice.

Rule 28. Briefs

(a) Brief of the Appellant. The brief of the appellant shall contain under appropriate headings and in the order here indicated:

(1) A table of contents, with page references, and a table of cases (alphabetically arranged), statutes and other authorities cited, with references to the pages of the brief where they are cited.

(2) A statement of the issues presented for review.

(3) A statement of the case. The statement shall first indicate briefly the nature of the case, the course of the proceedings, and its disposition in the court below. There shall follow a statement of the facts relevant to the issues

presented for review, with appropriate references to the record (see subdivision (e)).

(4) An argument. The argument may be preceded by a summary. The argument shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and parts of the record relied on.

(5) A short conclusion stating the precise relief sought.

Federal Rules of Civil Procedure

Rule 8. General Rules of Pleading

(a) Claims for Relief. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction and the claim needs no new grounds of jurisdiction to support it, (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be

demanded.

8 (e) Pleading to be Concise and Direct; Consistency.

(1) Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleading or motions are required.

(2) A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count of defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one of more of the alternative statements. A party may also state as many separate claims or defenses as he has regardless of consistency

and whether based on legal, equitable, or maritime grounds. All statements shall be made subject to the obligations set forth in Rule 11.

8 (f) Construction of Pleadings. All pleadings shall be so construed as to do substantial justice.

Rule 10. Form of Pleadings

(b) Paragraphs; Separate Statements. All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense

whenever a separation facilitates the clear presentation of the matters set forth.

10 (c) Adoption by Reference; Exhibits. Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

12 (b) How Presented. Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion:

(1) lack of jurisdicition over the subject matter, (2) lack of jurisdicition over the person, (3) improper venue, (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state a claim upon which relief can be granted, (7) failure to join a party under Rule 19. A motion making any of these defense shall be made before pleading it a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, he may assert at the trail any defense in law or fact to that claim for relief. If, on a

motion asserting the defense numbered (6) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.

(e) Motion for More Definite Statement. If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, he may move a move definite statement before interposing his responsive pleading.

The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

(f) Motion to Strike. Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 20 days after the service of the pleading upon him or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent,

or scandalous matter.

12 (g) Consolidation of Defenses in Motion. A party who makes a motion under this rule may join with it any other motions herein provided for and with it any other motions herein provided for and then available to him. If a party makes a motion under this rule but omits therefrom any defense or objection then available to him which this rule permits to be raised by motion, he shall not thereafter make a motion based on the defense or objection so emitted, except a motion as provided in subdivision (h)(2) hereof on any of the grounds there stated.

41 (b) Involuntary Dismissal: Effect Thereof. For failure of the plaintiff to prosecute or to comply with these rules or any order of

court, a defendant may move for dismissal of an action or of any claim against him.

MARYLAND COURT OF APPEALS

Rule 831(c)(4) Statement of Facts. A clear concise statement of facts material to a determination of the questions prsented. If there is any dispute with regard to any of the facts asserted by the appellant, or a possibility of such a dispute, the appellant shall so state. Reference shall be made to the pages of the record or the transcript of the testimony as contained in the record supporting his assertions, or is such portions of the record are included in the printed extract pursuant to Rule 828 (Part of Record to be Printed--Printed Record Extract) such reference shall be to the pages of the printed extract.

Maryland Court of Special Appeals

Rule 1031

c. Contents of Appellant's Brief. The brief of the appellant shall contain in the order here indicated:

1. Tables of Contents and Citations.

A table of contents and a table of citations of cases, constitutional provisions, statutes, ordinances, rules and regulations, with cases alphabetically arranged. When Maryland cases are cited, the citation shall include a reference to the official Reports, if published.

2. Statement of the Case - Questions Presented.

A brief statement of the case together with a succinct statement of the questions presented separately numbered. The statement of the

questions presented shall indicate the legal propositions involved and the questions of fact at issue expressed in the terms and circumstances and the case without unnecessary detail.

3. Constitutional Provisions, Statutes, Ordinances, Rules and Regulations.

The citation and verbatim text of all pertinent constitutional provisions, statutes, ordinances, rules and regulations. If any are lengthy, their citation alone suffice at this point, but their pertinent text shall be set forth in an appendix.

4. Statement of Facts.

A clear concise statement of the facts material to a determination of the questions presented. If there is

any dispute with regard to any of the facts asserted by the appellant, or a possibility of such a dispute, the appellant shall so state. Reference shall be made to the pages of the record of the transcript of the testimony as contained in the record supporting his assertions.

5. Argument.

Argument in support of the position of the appellant.

Maryland Civil Rules of Procedure

Rule 2-303. Form of Pleadings

(a) Paragraphs, County, and Defenses. - All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings; and a paragraph may be referred to by number in all succeeding pleadings. Each cause of action shall be set forth in a separately numbered count. Each separate defense shall be set forth in a separately numbered defense.

(b) Contents. - Each averment of a pleading shall be simple concise, and direct. No technical forms of

pleadings are required. A pleading shall contain only such statements of fact as may be necessary to show the pleader's entitlement to relief or ground of defense. It shall no include argument, unnecessary recitals of law, evidence, of documents, or any immaterial, impertinent, or scandalous matter.

(c) Consistency. - A party may set forth two or more statements of a claim or defense alternatively or hypothetically. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as the party has,

regardless of consistency and whether based on legal or equitable grounds.

(d) Adoption by Reference. Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in another pleading or in any motion. A copy of any written instrument that is an exhibit to a pleading is a part thereof for all purposes.

(e) Construction of Pleadings. - All pleadings shall be so constructed as to do substantial justice.

Rule 2-305. Claims For Relief

A pleading that sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain a clear statement of the facts necessary to constitute a cause of

action and a demand for judgment for relief sought. Relief in the alternative or of several different types may be demanded.

Rule 2-322. Preliminary Motions

(a) Mandatory. - The following defenses shall be made by motion to dismiss filed before the answer, if an answer is required: (1) lack of jurisdiction over the person, (2) improper venue, (3) insufficiency of process, and (4) insufficiency of service of process. If not so made and the answer is filed, these defenses are waived.

(b) Permissive. - The following defenses may be made by motion to dismiss filed before the answer, if an answer is required: (1) lack of jurisdiction over the subject matter, (2) failure to state a claim upon

which relief can be granted, (3) failure to join a party under Rule 2-211, and (4) governmental immunity. If not so made, these defenses and objections may be made in the answer, or in any other appropriate manner after answer is filed. If, on a motion to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 2-501, and all parties shall be give reasonable opportunity to present all material made pertinent to such a motion by Rule 2-501.

(d) Motion for More Definite Statement. - If a pleading to which

an answer is permitted is so vague or ambiguous that a party cannot reasonably frame an answer, the party may move for a more definite statement before answering. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 15 days after entry of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

(e) Motion to Strike - On motion made by a party before responding to a pleading or, if no responsive pleading is required by these rules, on motion made by a party within 15 days after the service of the

pleading or on the court's own initiative at any time, the court may order any insufficient defense or any improper, immaterial, impertinent, or scandalous matter stricken from any pleading or may order any pleading that is late or otherwise not in compliance with these rules stricken in its entirety.

(f) Consolidation of Defenses in Motion. - A party who makes a motion under this Rule may join with it any other motions then available to the party. No defense or objection raised pursuant to this Rule is waived by being joined with one or more other such defenses or objections in a motion under this Rule. If a party makes a motion under this Rule but omits any defense or objection then available to the

party shall not thereafter make a motion based on the defenses or objections so omitted as provided in Rule 2-234.

85-2018 (3)

Supreme Court, U.S.
FILED
JUN 9 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

ARTHUR KUNGLE, JR., Petitioner

v.

ST. JOHN'S COLLEGE, et al.

Respondents

ON WRIT OF CERTIORAI TO THE COURT

OF APPEALS OF MARYLAND

APPENDIX TO PETITION FOR WRIT:

h. RECORD OF QUESTIONS

ARTHUR KUNGLE, JR.
P. O. Box 365
Annapolis, Maryland
21404
(301) 263-9080
Pro Se

18 pp

Record - 6

Filed 5/21/84

THE CIRCUIT COURT FOR

ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE JR.

Plaintiff
Vs.

ST. JOHN'S COLLEGE
Annapolis, Maryland
21404

Defendant

and
EDWIN DELATTRE
St. John's College
Annapolis, Maryland 21404

Defendant

and
JEROME LAPIDES
St. John's College
Annapolis, Maryland 21404

Defendant

and
SAMUEL KUTLER
St. John's College
Annapolis, Maryland 21404

Defendant

and
EDWARD SPARROW

St. John's College
Annapolis, Maryland 21404

Defendant

and
BRYCE JACOBSEN
St. John's College
Annapolis, Maryland 21404

COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, ARTHUR KUNGLE JR., And sues ST. JOHN'S COLLEGE, EDWIN DELATTRE, JEROME LAPIDES, SAMUEL KUTLER, EDWARD SPARROW AND BRYCE JACOBSEN, and for his causes of action says as follows:

1. Plaintiff is a citizen of the State of Maryland;

2. Jurisdiction is founded upon the laws and Constitution of Maryland, and the laws and Constitution of the United States of

America, and Treaties made under the authority of the United States;

COUNT ONE

3. This count arises under Article 24 of the Maryland Declaration of Rights.

4. Defendant Corporation, henceforth the College, accepted Plaintiff as member;

5. In May 1981 Dean Edward Sparrow invited Plaintiff to his office absent particulars as to why;

6. There on May 22, 1981 exile from the campus was pronounced on the Plaintiff;

7. In subsequent meetings with Dean Sparrow and President Delattre few or no reasons were given;

8. Until after visits and final banishment;

9. And redress was forbidden;

WHEREFORE, Plaintiff requests injunctive relief to require the College to observe this right.

COUNT TWO

10. This count arises under 28 Edward III, Cap. 3.

11. Plaintiff repeats and realleges all his allegations in Count One.

WHEREFORE, Plaintiff requests injuctive relief to require the College to obey this law.

COUNT THREE

12. This count arises under common law.

13. Plaintiff repeats and realleges all his allegation in Count one.

14. Plaintiff further alleges that no fair trail was conducted.

WHEREFORE, Plaintiff requests

injunctive relief to require the College to follow that right principle.

COUNT FOUR

15. This count arises under Article 19 of the Maryland Declaration of Rights.

16. Plaintiff repeats and realleges all his allegations in COUNT Three. WHEREFORE, Plaintiff requests injunctive relief to require the College to observe this right.

COUNT FIVE

17. This count arises under Article 40 of the Maryland Declaration of Rights.

18. Dean Sparrow said that the reason Plaintiff did not belong on campus was because of what he wrote and said,

WHEREFORE, Plaintiff requests injunctive relief to require the College to honor this right.

COUNT SIX

19. This count arises under Article 36 of the Maryland Declaration of Rights.

20. Mr. Sparrow wrote that Plaintiff's religion was impermissible;

21. Mr. Jacobsen said that Plaintiff's writings were wrongly religious;

WHEREFORE, Plaintiff requests injunctive relief to require the College to honor this right.

COUNT SEVEN

22. This count arises under Article 45 of the Maryland Declaration of Rights.

23. Mr. Delattre and Mr. Sparrow wrote that Plaintiff's exercise of associabion and assembly rights were not to be permitted; Wherefore, Plaintiff requests injunctive relief to require the College to honor these rights.

COUNT EIGHT

24. This count arises under Articles 9 and 10 of the United States Bill of Rights.

25. Mr. Sparrow wrote for the College, purportedly, complaining of the Plaintiff's movements; WHEREFORE, Plaintiff request injunctive relief to require the College to respect this right, absent strict scrutiny.

COUNT NINE

26. This count arises under the

Fourteenth Amendment to the Constitution of the United States.

27. Plaintiff repeats and realleges Counts FIVE, SIX & SEVEN, WHEREFORE PLAINTIFF requests injunctive relief to require the College to respect these rights.

COUNT TEN

28. This count arises under ARticles 2 and 45 of the Maryland Declaration of Rights.

29. Plaintiff repeats and realleges Counts One thru Nine,

30. Plaintiff further alleges that the College has denied its other members freedom of choice and self determination in their reciprocal exercise of speech, writing, religious and associative rights, WHEREFORE, Plaintiff requests

injuctive relief to require the College to respect all its members rights.

COUNT ELEVEN

31. This count arises under common law.

32. Plaintiff sought to inspect the books of the corporation but was denied access;

33. Plaintiff was similarly denied opportunity to properly run for the Corporations Board due to irregular practices;

WHEREFORE, Plaintiff requests injunctive relief to require the College follow proper procedure.

COUNT TWELVE

34. This count arises under the United Nations Charter, the United Nations Declaration of Human Rights,

the Conference on Security and Cooperation in Europe, the American Declaration of the Rights and Duties of Man, and the American Convention of Human rights.

35. Plaintiff repeats and realleges Counts One thru Ten,

36. Plaintiff further alleges that these international agreements has simlarly been violated by the Corporation, Wherefore, Plaintiff requests injunctive relief to require the College to respect these principles.

COUNT THIRTEEN

37. This count arises under the Annotated Code of Maryland.

38. Plaintiff alleges that the College has acted ultra vires: beyond its power and proper capacity,

Wherefore, Plaintiff requests injunctive relief to require the College to cease such actions.

COUNT FOURTEEN

39. This count arises under common law.

40. Plaintiff alleges that agents and employees of the College have negotiated, spoke, written or dealt with him and others in bad faith, with duress, and have falsely or fraudently acted,

WHEREFORE, Plaintiff requests injunctive relief to require the College to cease such actions and to put aside what has been attempted by such actions.

COUNT FIFTEEN

41. This count arises under common law.

42. Plaintiff realleges previous counts,

WHEREFORE, Plaintiff requests injunctive relief to require his reinstatement as member of the College and a free man.

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AMENDMENT OF BILL OF COMPLAINT

COUNT TWO

10. This count arises under 28 Edward III, Cap. 3, and Article 5 of the Maryland Declaration of Rights.

COUNT THREE

12. This count arises under common law and Article 5 of the Maryland Declaration of Rights.

COUNT SEVEN

22. This count arises under Articles 2, 3 & 45 of the Maryland Declaration of Rights.

COUNT EIGHT

24. This count arises under Articles 9 and 10 of the United States Bill of Rights and Articles 3 and 45 of the Maryland Declaration of Rights.

&

WHEREFORE, Plaintiff requests injuctive relief to require the College to respect this right and principle, absent strict scrutiny, and reasonable and knowable standards.

COUNT NINE

26. This count arises under the Fourteenth Amendment, and also thereby the First Amendment, to the Constitution of the United States.

27. Plaintiff repeats and realleges Counts FIVE, SIX SEVEN AND

TEN.

COUNT TEN

28. This count arises under Articles 2, 3, 6, & 45 of the Maryland Declaration of Rights.

COUNT ELEVEN

31. This count arises under common and statutory law, and Articles 5 & 6 of the Maryland Declaration of Rights.

COUNT TWELVE

34. This count arises under Articles 2, 3 & 45 of the Maryland Declaration of Rights, and Article VI of the United States Constitution, as well as the United Nations Charter, the Nited Nations Declaration of Human Rights, the Conference on Sedurity and Cooperation in Europe, the American Declaration of the

Rights and Duties of Man, and the American Convention on Human Rights.

COUNT FOURTEEN

39. This count arises under common and statutory law and Article 5 of the Maryland Declaration of Rights.

COUNT FIFTEEN

41. This count arises under common and statutory law and Article 5 of the Maryland Declaration of Rights. WHEREFORE, Plaintiff requests injunctive relief to require his reinstatement and restoration as a member of the corporation, and recognition by the corporation of all its members as free and responsible living beings.

WHEREFORE, and also, Plaintiff respectfully requests such other and further relief as may be required.

And as excuse for what may seem to be delay, Plaintiff avers that he proceeded with diligence, including expenditure, risk, and obligations incurred, in spite of loss of records, awaiting pending legal proceedings, and fear for harm or danger to other living beings to and for whom he had and has duty, right, and relations, including fiduciary, confidential and of trust. Defendants have induced delay by relations purporting to be fiduciary, confidential and with trust, by concealment of material facts and causes of action and through various attempts at negotiations towards settlement.

AND, WHEREAS, under the Old Maryland Rules law and equity were

separate, and multiplicity of suits was discouraged, and the (New) Maryland Rules apply insofar as practicable,

Under civil action, Plaintiff repeats what is proper of the previous counts, and Plaintiff requests respectfully such relief as was previously appropriate at law, including mandamus where appropriate.

Record - 63 Filed 8/20/84

IN THE CIRCUIT COURT FOR

ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE JR

Plaintiff

v.

ST. JOHN'S COLLEGE, et al

Defendants

Case No. 3106024

AMENDED COMPLAINT ACCORDING TO PRE-TRIAL CONFERENCE

COMPLAINT AND REQUEST FOR JURY TRIAL

COMES NOW The Plaintiff, ARTHUR KUNGLE JR., and sues ST. JOHN'S COLLEGE, EDWIN DELATTRE, JEROME LAPIDES, SAMUEL KUTLER, EDWARD SPARROW, AND BRYCE JACOBSEN, and for his causes of action says as follows:

1. Plaintiff is a citizen of the State of Maryland;

2. Jurisdiction is founded upon the laws and Constitution of Maryland, and the laws and Constitution of the United States of American, Treaties made under the authority of, and International Law applicable to, the United States;

I

These claims arise under Article 24 of the Maryland Declaration of Rights:

.1 The Corporation, or the College, accepted and admitted Plaintiff as member;

In May 1981 then Dean Edward Sparrow invited Plaintiff to his office absent particulars as to why;

And there May 22, 1981 exile from the campus was pronounced on the Plaintiff, effective Labor day.

.2 It was suggested that previous efforts might be turned into more formal employment, but in terms requiring censorship to self and others, and compliance with discrimination against others.

.3 In that and other subsequent meetings with Mr. Sparrow and President Delattre few or no reasons were given.

.4 That is until after visits and final banishment.

.5 And redress was forbidden. This continues.

.6 And though more information and remedy was sought from them, other officers, and the board, there has

been little or no response. This is continuing.

Additional facts include: Alumni had confidential meetings and correspondence with officials, and students presented petitions to them--which were not requested and were recommended against by Plaintiff. Thereafter Plaintiff met with Mr. Delattre in October and Mr. Sparrow in November, 1981.

II

This claim arises under 28 Edward III, Cap. 3, and Article 5 of the Maryland Declaration of Rights. Plaintiff repeats and realleges all in Claims I.

III

This claim arises under common law and Article 5 of the Maryland

Declaration of Rights. Plaintiff repeats and realleges all in Claims I, and further alleges that there was no fair notice, hearing or trial.

IV

This claim arises under Article 19 of the Maryland Declaration of Rights. Plaintiff repeats and realleges all in Claim III, and subsuquent applicable Claims.

V

These claims arise under Article 40 of the Maryland Declaration of Rights.

.1 Mr. Sparrow said in that May that the reason the Plaintiff did not belong on campus was because of what he wrote and said. Later in November he said that the issue was not words, but no one had the right to say such

things. Still later than November he wrote that opinions, and attempts at communication were part of the problem.

.2 In May Mr. Sparrow said that a condition of further work would be not to speak to anyone, and not to post anything on any bulletin board.

.3 In the previous October Mr. Jacobsen had said that unless the Plaintiff stopped sending letters he would "take care" of him.

.4 The communication above included talking to others on the phone.

.5 Mr. Delattre's October letter alluding to his objections seemed less in response to what Plaintiff had written than to what he had put in the Gadfly (independent weekly at St. John's College), which were words

about freedom from Mr. Willkie's grave.

VI

These claims arise under Article 36 of the Maryland Declaration of Rights:

.1 Mr. Sparrow wrote that Plaintiff's exercise of ministry was impermissible.

.2 It was earlier indicated that Plaintiff's religious beliefs were inferior or impossible or wrong, thus Mr. Milner, Dr. Kinzer, and Mr. Sparrow.

.3 Mr. Jacobsen said that Plaintiff's writings were wrongly religious.

.4 Mr. Jacobsen and Mr. Ault said, respectively, that Plaintiff should, and he would help him, go into a

religious retreat, far away.

VII

These claims arise under Articles 2, 3, 45 & 19 of the Maryland Declaration of Rights:

.1 Mr. Delattre and Mr. Sparrow wrote and the latter said that Plaintiff's exercise of assembly rights was not to be permitted.

.2 Mr. Delattre and Mr. Sparrow wrote and the latter said that Plaintiff's exercise of associative rights was not to be permitted.

.3 The administration, faculty and board have denied the proper relationship--called friendship--on campus between members of different classes of the corporation, expecially other than their own.

VIII

These claims arise under Articles 2, 3 45 & 19 of the Maryland Declaration of Rights and Articles 9 & 10 of the United States Bill of Rights, if not others.

.1 Mr. Sparrow wrote, purportedly for the College, complaining of the Plaintiff's movements of body.

.2 Mr. Sparrow also complained of movements of thought, mind and spirit.

.3 Correlative of movement of body is body without movement or station or status.

.4 Correlative of movement of thought, mind and spirit is their stationary condition and content.

.5 Complained of also must be movements of body with regard to others. An example given to a

student was that Plaintiff scared young ladies by his waltzing. On the other hand plaintiff has received complaints from young ladies that that waltzing is missed.

.6 Complained of also is the effect of words and ideas (by movement or lack thereof) on others.

(The items in the above paragraphs are difficult to get a handle on: plaintiff has a hard time figuring out facts that would legitimately justify complaint.)

IX

These claims arise under the Fourteenth Amendment, or other appropriate parts, of the Constitution of the United States, or statutes thereunder.

Alternatively, these arise under

applicable parts of the Maryland Constitution or laws.

Plaintiff repeats and realleges Claims I thru VIII & X.

.1 The corporation and its masters and agents have discriminated and denied access to facilities open to the public.

.2 The corporation and its masters and agents have discriminated and denied access to facilities open to the members of the corporation.

.3 The corporation by its employees has given special favors to some employees and their families, while denying access and rights--other than as privileges--to permanent members.

.4 The corporation has discriminated in employment with regard to its permanent staff.

.5 The corporation has discriminated in employment with regard to its at-will workers, more especially those who are also members, and members of legitimate organizations on campus.

With regard to paragraphs IX.1 & .2: the history of relations between the college, the state, the public and its own members is long and complex and partly awaits discovery. With regard to IX.3, It is discriminatory to allow tc some and deny to others what the Congress and legislators can not deny by the 1st amendment, as well as other legislation. With regard to LX.4 & .5, it is discriminatory to retaliate against willing workers, who are part of organizations encouraging

voluntary participation, for their exercise of protected freedoms, and for sticking up for members of other classes (student & staff) who are being discriminated against.

X

These claims arise 2, 3, 6 & 45 of the Maryland Declaration of Rights, and other appropriate Maryland & U.S. provisions.

Plaintiff repeats and realleges Claims I thru IX.

Plaintiff further alleges that the corporation, and some of its member classes, have denied to other members and classes freedom of choice and self determination in their reciprocal exercise of fundamental freedoms and human rights:

.1 Listening and speaking in return

have been denied.

.2 Reading and writing in return have been curtailed.

.3 Prayer and movement of spirit has been circumscribed.

.4 Exchange of thoughts and ideas has been prevented.

.5 Peaceful assembly has been denied.

.6 Associative activities have been curtailed.

.7 Proper relationship of friendship has been circumscribed for some.

.8 As immediately above, and it has been denied for others.

.9 Legitimate contact has been prevented.

XI

These claims arise under common and statutory law, and Articles 5 & 6 of

the Maryland Declaration of Rights.

.1 Plaintiff sought to inspect the books of the corporation but was denied access.

.2 Plaintiff was told by Mr. Sparrow that he could not be a board member, and when he announced his intention of trying, his name was taken off the mailing list so that he did not receive timely notice of filing deadlines, and the interrelated Alumni Association corporation made its qualification requirements more difficult.

.3 Plaintiff protested by letters to the Secretary of the Board, Mr. Lapides, and therein formally challenged the elections.

.4 By this averment he notes that seemingly little or nothing has been

done, and therefore Plaintiff challenges the validity of all alumni elections to the Board of Visitors and Governors of the corporation.

XII

These claims arise under Articles 2, 3 & 45 of the Maryland Declaration of Rights, and Article VI of the United States Constitution, as well as the United Nations Charter (UNCH), the Universal Declaration of Human Rights (UDHR), the Conference on Security and Cooperation in Europe: Final Act (Helsinki Accord), the Charter of the Organization of American States, as amended by the Protocol of Buenos Aires (OASC), the American Declaration of the Rights and Duties of Man (ADRD), and the American Convention on Human Rights (AMR).

B. Alternatively, as above, and where there is independent and adequate domestic articulation of those principles inform, infuse, and support their meaning.

C. Alternatively, as above, and where there is not articulation of these principles in domestic instruments, the international statement of principles, greatly nurtured through the history of this land, inform and infuse domestic general, open and expandable clauses.

.01 This is according to UNCH.

.02 This is according to the Preamble UNCH particularly.

.03 This is according to Art. 51, UNCH.

.04 This is according to Art. 56, UNCH.

.05 This is according to UDHR, Preamble.

.06 This is according to Art. 1, UDHR. thru this is according thru .35 This is according to Art. 30, HDHR.

.36 This is according to Helsinki Accord 1.a.VII, Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion, or belief, & conformity clause

.37 This is according to Helsinki accord in general.

.38 This is according to OASC.

.39 This is according to OASC, Art. 3, j. particularly.

.40 This is according to OASC, Art. 43 (a) particularly.

.41 This is according to ARDR,

Preamble.

.42 This is according to ARDR, Art. 1. thru this is according thru

.79 This is according to ARDR, Art. 38.

.80 This is according to AMR, Preamble.

.81 This is according to AMR, Art. 1. thru this is according thru

.112 This is according to AMR 32, Relationship between Rights and Duties.

(It may be properly noted that AMR may more properly infuse, inform, support and define OASC and ARDR.)

For with, and in each of the paragraphs included in XII the plaintiff reasserts and realleges all in other Claims.

XIII

These claims arise under the Annotated Code of Maryland, and such other statutory, common and constitutional provisions as are applicable.

Plaintiff alleges that the corporation or its directors, employees, or other members, has or have acted ultra vires: beyond its (or their) power and capacity.

.1 The bylaws, or polity, say that the alumni act formally through the alumni association, but neither there nor elsewhere are constitutionally guaranteed and protected fundamental freedoms and liberties and human rights forfeited nor properly subjected to liscense--nor can they be. Therefore in denying or liscensing its members liberties it

acts ultra vires.

.2 There is no procedure for properly excluding a member, nor has the least semblance of proper procedure been followed. Therefore it acts ultra vires.

XIV

These claims arise under common and statutory law and Article 5 of the Maryland Declaration of Rights.

Plaintiff alleges that agents and employees of the corporation negotiated, spoke, wrote and dealt:

.1 As above, with him, in bad faith.

.2 As above, with him, with duress.

.3 As above, with him, falsely.

.4 As above, with him, and fraudulently.

.5 As above, with others, in bad faith.

.6 As above, with others, with duress.

.7 As above, with others, falsely.

.8 As above, with others, and fraudulently.

Facts in support include that named parties and others encouraged discussions, or forced them, encouraged reliance, and trust, and made promises which were not kept, nor evidently was there intention for honest, open and fair dealing, and yet the plaintiff and others were hurt by dealing with and relying on them.

XV

These claims arise under common and statutory law and Article 5 of the Maryland Declaration of Rights.

.1 Plaintiff has been disfranchised

unfairly and unjustly as member.

.2 Other members have reciprocapally been deprived of their rights and franchises as members improperly.

And these things have happened in spite of the fact that those who were to become permanent members, after paying entrance or subscription fees, signed their names into register of the corporation, and the president said that thereupon he afixed the great seal.

AND, WHEREAS, under the Old Maryland Rules law and equity were separate, and multiplicity of suits was discouraged, and the New Rules apply insofar as practicable,

Under civil action, Plaintiff repeats what is proper of the previous claims and in as much as

they could not be stated above for:

A. violation of law 1784 Maryland Chapter 37: XVI thru XXX corresponds to I thru XV;

B. breach of contract: XXXI thru XLV corresponds to I thru XV;

C. tort for injury to personal rights and liberties: XLVI thru LX corresponds to I thru XV;

D. tort for interference with business and contact: LXI thru LXXV corresponds to I thru XV.

(And as excuse for what may seem to be delay, Plaintiff avers that he proceeded with diligence, including expenditure, risk, and obligations incurred, in spite of travail and

loss of records, while awaiting pending legal proceedings and developments, and acted with proper regard, care and fear for harm or danger to other living beings to and for whom he had and has duty, right, and just relations, including those fiduciary, confidential and with and of trust. Defendants have induced delay by relations purporting and seeming to be fiduciary, confidential and with trust, by making renewed promises--evidently never having been intended to be kept--through various stages of, and attempts at, negotiations towards settlement, and by concealment of material facts and causes of action. Moreover all of this is continuing and ongoing.)

(Plaintiff pursued legal and

historical research in 7 states & the District. Records were lost in moving. Court decisions and discrimination proceedings were awaited. Vital matters were cared for. Plaintiff was concerned that a public squabble might prevent present students proper attention to the program, and even more that students or staff who dared to say the wrong thing could suffer--as a reported discovered who received "the Wrath of St. John's", where "criticism is not permitted" according to Mr. McDowell, former Gladfly editor, present law school student. In November of 1980 Plaintiff visited the Dean at home, where they prayed together, and he was asked to trust the other, who expressed various concerns about the

campus--having little relevance to the Plaintiff inasmuchas he had been out of state, and had mostly stayed off campus, objecting to discrimination, fibbing, drugs, disregard to dangers to students, & the hoopla of the new President's coronation and attendant propaganda about SJC. The two humored and honored each other for awhile. Due to some delicate matters, plaintiff tried to meet with the president, but he did not show up. Plaintiff later asked and received the Dean's kind aid in family matters. (And in spite of later unfortunateness he tried to reciprocate.) Plaintiff began to wonder about what trust meant in May 1981 when discrimination was reaffirmed and thumb jerk of

ejectment or a slash across the throat was indicated by the Dean as a consequence for wrong speak or deed & more formal employment. Following alumni & student requests the next fall Plaintiff met with the president but contrary to his letter of invitation he would not reveal his concerns, until later in a mysterious letter. Following Nov. 13 encounter with the good Dean at his home--Plaintiff learned that "no one has a right to be" himself--and plaintiff's rambling, if not eloquent letters on law and history, the administration produced and involved and confusing letter of pseudo-complaints and pronounced the case closed. (It was so brilliant it took plaintiff 6 months to interpret

and answer it.) Plaintiff later wrote the Board and asked why was going on, and an unsolicited delegation of students styling themselves Friends of Liberty asked the same question, they may have, plaintiff has not yet, received an answer.)

WHEREFORE, the Plaintiff respectfully requests injunctive and such other and further relief as may be required.

An further he respectfully requests such relief as was previously appropriate at law, including mandamus where proper.

And for relief, the Plaintiff respectfully requests the Honorable Court to:

1. Accept jurisdiction of this case

and controversy;

2. Declare that constitutional guarantees extend to all citizens and provide proper standards;

3. And this most especially with regard to fundamental freedoms, and basic human rights and duties of man;

4. Require the corporation to respect these principles as applying to all its members without regard to class;

5. Reinstate plaintiff and restore to all members their protected rights with responsibility;

6. Require the corporation to henceforth proceed by regular, open honest procedures with process which is due;

7. Require the corporation to put money obtained under false pretenses

by mail from the Plaintiff in a fund to benefit the students or staff's retirement;

8. Do whatever else is proper.

Respectfully submitted,

Arthur Kungle Jr.
Plaintiff
c/o 50 Maryland Ave.
Annapolis, Maryland 21401

CORRECTIVE AMENDMENTS OF COMPLAINT
AMENDED ACCORDING TO
PRE-TRIAL CONFERENCE

Comes Now the Plaintiff to make corrective amendments of Complaint Amended according to Pre-trial conference and Rule 2-341:

V, VI, VII, VIII, IX, X & XII: The paragraphs under these generally numbered claims should end: With regard to all above under the numeral, right with responsibility is due respect, wrong is in denying this right, omission is in failing to respect or recognize it. Injury, loss and damage follow from denial and deprivation of these principles. It is hard to reckon cost, and impossible to arrive at monetary

recompense, for loss of liberties.

And this is continuing.

VII.3 Add: according to Mr. Burkett, in 1983/84

IX Add to cognates of the word discriminate: (cognates of) and deprive of right...

IX At "it is discriminatory" Add: and abusive discharge..."to retaliate".

X To "2, 3, 6 & 45" Add: 19 & 24.."of Maryland Declaration"

XI.1 Add: in fall 1981 & spring 1982.

XI.2 Add: in fall 1981 thru spring 1982.

XI.3 Add: in Oct. 1982, April 1983, April 1984

XIII Add on last line: "all in

other Claims" I-X.

XIII, XIV, XV Add: Plaintiff reasserts and alleges Claims I-XV.

Page 8 In "And as excuse", delete extra delati/delay purporting to be and seemingly fiduciary, confidential and with trust.

With apology for earlier illness:

Respectfully submitted,

Arthur Kungle Jr

Record - 135 Filed 10/22/84

IN THE CIRCUIT COOURT FOR

ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE JR.,

FOR HIMSELF & OTHERS,

AS IT IS PROPER

Plaintiff(s)

Vs. No. 3106024

ST. JOHN'S COLLEGE.

& EDWIN DELATTRE,

& SAMUEL KUTLER

& EDWARD SPARROW,

& BRYCE JACOBSEN,

& OTHER, INDIVIDUALLY

& COLLECTIVELY, AS IT

IS APPROPRIATE & RPOPER

Defendatnts

REVISED COMPLAINT

Comes now the Plaintiff, for himself and others, as it is proper,

and sues St John's College, & Edwin Delattre & Jerome Lapides & Samuel Kutler & Edward Sparrow & Bryce Jacobsen & opthers, individually & collectively, as it is appropriate & proper, and says as follow:

1. Plaintiff is a citizen of the State of Maryland and Jurisdicition is founded upon the laws and Constitution of Maryland, and the laws and Consitution of the United States of America, and Treaties made under the authority thereof, and INternational Law applicable thereunto.

2. The Corporation, or the college, accepted Plaintiff as member in 1963, with others, then & later, membership became permanent, after paying entrance fees and singing into the corporate register, whereon the President afixed the great seal.

3. Therafter Plaintiff on campus & off, formally & informally, participated in groups efforts and helped as a fried, in spite of disillusiionment with the school and society.

4. In May 1981 then Dean Sparrow invitedPlaintiff to his office absent particulars as to why, and pronounced exile from campus effective Labor Day. (See Defendant's May 22,1981 letter.)

5. It was suggested that previous efforts of Plaintiff might be turned into more formal employment, but in terms denying rights of self & othrs and discriminatory against others for equal employment opportunity.

6. In that and other subsequent meetings with Mr Sparrow & president Delattre, few or no reasons were given, until after visits & final banishment. And redress was forbidden. (Compare correspondence Sept.-

Nov. 1981, previously submitted to Honorable Court.)

7. Confidential meetings were held by the president with alumni, & students contrary to plaintiff's recommendation petitioned.

8. And though more information and remedy was sought from officers & the Board, there has been little or no response. This is continuing, and ongoing, neither fair notice or hearing.

I. Therefore there arises claim of denial of process due or natural justice, under Article 24 of the Maryland Declaration of Rights (MDR), considering paragraphs 1-8, and

II under Art. 5 MDR, & 28 Edward II, Cap. 3, again I; and

III under common law & Art. 5 MDR, again I: and

IV under Art. 19, MDR, as in I.

9. Defendant's letter of Nov. 22, 1981, clearly stated complaints about Plaintiff's speech, writing, religion, belief, thought, assembly, association, movement, with regard to others, and intention to censor these. This is continuing & ongoing.

V. Therefore this claim arises under Art. 40 MDR, & L-IV, with regard to speech, writing & printing & thought.

VI From paragraph 9 this claim arises under Art. 36 MDR, &I-IV, with regard to religion, belief & thought.

VII From paragraph 9 this claim arises under Arts. 2, 3 & 45 MDR, & I-IV, with regard to assembly, association, and proper relation between & among friends.

VIII & From paragraph 9, this claim arises under Arts. 2, 3 & 45 MDR & I-IV, with regard to bodily movement or lackof

it;

& VIII B with regard to movement or state of thought, mind, or spirit, claim arises under that cited in VIIIA.

10. The corporation has:

a. discriminated in employment against its permanent staff under pay and against its at-will workers, who are members of legitimate organizations;

b. denied access and use of facilities available to members of the corporation.

c. denied access and use of facilties open to the public.

IXA Adopting 10 a, this claim arises under the appropriate US code, also adopting paragraph 5.

IXB Adopting 1-8, & 10a this claim arises under common law.

IXC Adopting 1-9, & 10b this claim arises under appropriate US Code,

IXD Adopting 1-9, & 10b this claim arises common law.

IXE Adopting 1-9, & 10c this claim arises under the appropriate US code.

IXF Adopting 1-9, & 10c this claim arises under common law.

11. Platinff reassert paragraaphs 1-10, especially 9, & in

X Argues for the reciprocal exercise of fudnamental freedoms and human rights, by freedom of choice and self-determination by other members of the corporation. This claim arises under articles cited above in I-VIII.

.1 Listening and speaking in return have been denied.

2. Reading and writing in return have been curtailed.

3. Prayer and movement of spirit have been circumscribed.

.4 Exchange of thoughts and ideas have been prevented.

.5 Peaceful assembly has been denied.

.6 Associative activies have been curtailed.

.7 Proper relationship of friendship has been circumscribed for some.

.8 As immediately above, and it has been denied for others.

.9 Legitimate contact has been prevented.

12. Where it is appropriate the United Nations Charter (UNCH), the Universal Declaration of Human Rights (UDHR), the Conference on Security and Cooperation in Europe: Final Act (Helsinki Accord), the Charter of the Organization of American States, as amended by the Protocol of Buenous Aires 9oasc), the American Declaration of the Rights and Duties of Man (ADRD), and the

American Convention on Human Rights (AMR), may inform, infuse & support, or expand our domestic documents.

XI.A. From 12 above, most especially Helsinki 1.a. VII; and

XI.B. From 12 above, most especially ARDR, Art. 26--every accused person is presumed to be innocent until proved guilty.

13. In fall of 81 & spring of 82 Plaintiff sought to inspect corporate books, & was told he could not be a board member. Challenge letters to corporate secretary in 82 & 83 brought no response.

XII A incoroporating 13, claim arises under common law.

XII B " ", " " " Maryland code.

14. The corporation has not followed its bylaws, for it has no provision

for expelling a member, and has unfairly denied rights and privileges tomany of its members.

XIII This claim incorporates by reference 1-14 and is that the corporation has acted ultra vires.

15. The corporation, its employees and agents, have negotitated, spoke, written and dealt with Plaintiff and others associated in bad faith, with duress, and falsely whether intentionally or not, or recklesssly ornot. Plaintiff and others olaced reliance on the words oif those abobe, and this was misplaced even as were misled, to our hurt and los.

XIVA This claim reincorporates 1-14, and this arises under common law.

XIVB " " " " " " " " by Maryland code.

XV This claim arises under Art. 5 MDR, and reasserts paragraphs1-15, especially 2, 7, 8, 9, 10, 13 & 14, for the members of the corporation have been denied their rights and franchises in the corporation.

And as excuse for what may seem delay Plaintif claims diligence, unfounded reliance on Defendants, and concealment by the.

Pardon is granted for those who trespass against me, both believers and not, as highter authority guides. Wrong to others and fundametnal principles is not so easy to forget.

Joinder is as staed in caption because with all the differing and congracictory comments of people at St John's College is is hard to who did what whe. Simlarly it is hard to know all things reffered to until further discovery.

WHEREFORE, Plaintiff respectfully requests injunctive and such other relief as may be required and proepr;

and further he respectfully requests such relief as was previously appropriate at law, including declaratory judgement and mandamus where proper.

And for relief, the Plaintiff respectfullly requests the Honoroable Court to:

1. Accept jurisdiction of this case and controversy;
2. Declare that constitutional guarantees extend to all citizens and provide proper standards;
3. And this most especially with regard to fundamental freedoms, and basic human rights and duties of man;
4. Require the corporation to respect these principles as applying to all its memembers without regard to class;

5. Reinstate plaintiff and restore to all members their protected rights with responsibility;

6. Require the corporation to henceforth proceed by regular, open and honest procdures with process which is due;

7. Require the corporation to put money obtained undeer false pretense by mail from the Plaintiff in a fund to benefit the students or staff's retirement;

8. Allow amendment of pleadings such as is necessary and proepr as discovery progresses.

9. Do whatever else is proepr.

Respectfully submitted,

Arthur Kungle Je Plaintiff

c/o 50 Maryland Ave. Annaposlis, Maryland 21404.

Request for jury trial

Plaintiff requests to have this case tried by a jury where proper.

Arthur Kungle Jr

Record - 148

SUPPLEMENT TO REVISED COMPLAINT

Comes now the Plaintiff to cupplement his revised complaint with wrongs suffered after May 22, 1981, and more especially after May 21, 1984, and says:

16. Not to be able to join with the Methodists in anniversary worship and celebration under the Liberty Tree this last summer is a grievous loss.

17. Not to be able to share care with the sick on campus this week was a loss to all.

18. Not to be able to communicate with students and alumni at homecoming about environmental matters was a loss to all and a handicap and deterrent to legitimate ongoing efforts and activities.

19. Not to be able to discuss

totalitarianism and tyranny in human society with Mr. IF Stone was a loss to both & others.

20. Not to be able to discuss developments in constitutional and common law with Prof. Collins on UN day was a loss to both, and common law lands, and more.

XVI. Adopting paragraphs 16-20, and whatever appropriate before I-XV, this constitutes a tort for injury to personal rights and liberties.

XVII adopting paragraphs 16-20, and whatever appropriate before I-XV, this constitutes a tort for interference with business and contact, for self.

XVIII As in XVI & XVII, also for others.

Wherefore Plaintiff respectfully adopts and repeats the previous request for relief, and such other as is proper.

Respectfully submitted,

State of Questions presented:

Should an entire complaint be striken, before discovery of good faith effort to resolve dispute, when part of the complaint's issues raised is or should be known or notice by the defendants?

Should a complaint be dismissed, assuming at least part of the previous question, when also considerations are facts not on the record, hearsay, reliance on non parallel precedent, and holding the pleadings against the pleader?

Should relief be given to one excluded from a membership corporation for exercise of speech, religion, thought association, and movement?

Should relief be given as above, or separately, when one is banned or excluded without notice or fair hearing?

In this situation can one defend the rights and interests of others?

Are statutes in violation of the above repubnant to our constitutions, especially when they are used or so abused?

Should a motion to alter or amend be stuck when more and better evidence becomes available to support any of the above questions?

Appellate Reply Brief 3

(following correction of misstatements of case and fact):

REPLY BRIEF QUESTIONS PRESENTED IN RESPONSE TO QUESTIONS IN APPELLEE'S BRIEF

1. WHAT IS PROPER PLEADING?

2. WHAT IS PROPERLY EXPECTED?

3. WHAT IS KNOWN AND SHOULD BE CLEAR FROM THE RECORD?

4. WHAT IS THE RELATIONSHIP CONSIDERATIONS OF LIBERTY AND INTELLIGIBILITY IN THESE PROCEEDINGS?

5. MARYLAND'S APPELLATE COURTS MAY CONSIDER QUESTIONS NOT FULLY DECIDED BY LOWER COURTS.

ç. THE DISCRETION OF A TRIAL COURT MAY DIFFER FROM THAT OF A MARYLAND APPELLLATE COURT.

d. Questions presented for review:

I. Did the lower Court err:

1. in striking the complaint:

   a. absent proper discovery?

   b. with evidence sufficient to proceed?

   c. with facts more in knowledge of defendants?

   d. in whole, and not part by part, nor simply the excess?

2. in dismissing the complaint, previous considerations continuing:

   a. unless no facts could support any part?

   b. not in light most favorable?

   c. against evidence?

   d. with outside reliance?

h - e. including hearsay?

71 f. against substantial evidence

and justice?

g. on inapplicable precedent?

h. where relief was proper?

3. in denying important and fundamental rights to fair procedure, notice and hearing?

a-d. guaranteed by constitutions, statute, and common law?

e. with remedy and relief proper?

4. in denying important and fundamental rights, with responsibility:

a. speech?

b. religion?

c. thought?

d. association?

e. movement?

5. in denying important and fundamental rights, as above,

reciprocally (with others)?

6. in denying important and fundemental rights:
   when statutes are in conflict with:
   a. state constitution?
   b. federal constitution?
   c. nor to consider the reach of state and federal constitutions and law, and international agreements and law?
7. in denying motion to alter or amend:
   a. for suprise of ignoring above, and not giving attention to each part of the complaint? or substantial justice?
   b. where new evidence of bylaws

better framed corpoate analysis?

II. Did the Court of Special Appeals err or was it in conflict with other panels:

8. in ignoring or compounding the errors of the lower Court?

9. that appeal was from denial of motion to alter or amend and the original judgement?

10. relying on inapposite precedent where evidence and reference were lacking?

11. relying on inapposite precedent with regard to extract?

12. where rules were substantially followed with difficulty?

13. a. where inapposite precedent was based on deception?

b. where deception and fraud are

by appellee/defendants?

c. which vitiates the most solemn transaction--and does it vitiates the most solemn transaction--and does it vitiate proceedings and decisions heretofore?

14. to reach to international ambiguities without putting the state constitution first?

15. in denying the applicability of international agreements?

16. in denying the applicability of proper principles and precedents of old common law and statutes?

17. in not considering violation of constitutional rights?

18. that this effort is improperly subversive?

19. in viewing this effort as

incomprehensible, either as not to be included or not to be understood: for the superiority of some in our society? of the denial of inclusion of rights and duties for all?

III. These general considerations, reflective of and on the preceeding, apply to all our courts and judicial proceedings:

20. How is law to advance without novel arguments and with due respect to proper countervailing values?

21. With new rules and congruences, how are requirements of pleading and procedure, strict and liberal, complex and simplified, to be balanced or reconciled?

22. How are important and

fundamental provisions, similarly and differently worded or based, to be construed with good jurisprudence? And, in truth, what is liberty?

85-2018

Supreme Court, U.S.
FILED
JUN 9 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

ARTHUR KUNGLE, JR., Petitioner

v.

ST. JOHN'S COLLEGE, et al.

Respondents

ON WRIT OF CERTIORARI TO THE COURT

OF APPEALS OF MARYLAND

APPENDIX TO PETITION FOR WRIT:

k. APPENDIX: ORDERS, OPINION,

JUDGMENT AND OTHER MATERIAL

ARTHUR KUNGLE, JR.
P. O. Box 365
Annapolis, Maryland
21404
(301) 263-9080
Pro Se

70 pgs
foldout

(k)(ii) IN THE CIRCUIT COURT FOR

ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE, JR.	:	Record - 134
Plaintiff	:	
vs.	:	No. 3106024
ST JOHN'S FOLLEGE, et al:		
Defendants	:	Entered 9-24-84

ORDER

Came on to be heard the 20th day of September, 1984, Defendants' Motion to Strike Plaintiff's Complaint and Demand for Jury Trial, Amendment of Bill of Complaint, Amended Complaint According to Pre Trial Conference, and Corrective Amendments to Complaint Amended According to the Pre Trail Conference, and the Court having reviewed the arguments and submissions of the parties relating

thereto, it is accordingly this 24th day of September, 1984, by the Circuit Court for Anne Arundel County, Maryland,

ORDERED, ADJUDGED and DECREED that Plaintiff's Complaint and Demand for Jury Trial, Amendment of Bill Complaint, Amended Complaint According to Pre Trial Conference, and Corrective Amendments of Complaint Amended According to Pre Trial Conference, be and hereby are stricken; and it is further

ORDERED, ADJUDGED and DECREED that Plaintiff be and hereby is given leave to file amended or revised pleadings, which comply with the Maryland Rules, on or before October 22, 1984; and it is further

ORDERED, ADJUDGED and DECREED that no further leave to file amended

or revised pleadings will be afforded to Plaintiff in the event Plaintiff does not file the pleadings aforesaid by October 22, 1984; and it is further

ORDERED, ADJUDGED and DECREED that any and all discovery in this cause be and hereby is stayed pending Plaintiff's compliance with the provisions of this Order.

/s/ Martin A. Wolf
Martin A. Wolf
Judge, Circuit Court
for Anne Arundel
County

IN THE CIRCUIT COURT FOR
ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE, JR.	:	Record
	:	- 179
Plaintiff	:	
	:	
vs.	:	No. 3106024
	:	
ST. JOHN'S COLLEGE	:	
EDWIN J. DELATTRE	:	Entered
JEROME LAPIDES	:	
SAMUEL KUTLER	:	1-10-85
EDWARD SPARROW	:	
BRYCE JACOBSEN	:	
	:	
Defendants	:	

ORDER

Came on to be heard the 7th day of January, 1985, Defendants' Motion to Strike Plaintiff's Third Amended Complaint and to Dismiss the cause of action pending herein, and the Court having heard and reviewed the arguments and submissions of the parties relating thereto, it is, accordingly, this 10th day of January, 1985, by the Circuit Court for Anne Arundel County, Maryland,

ORDERED, ADJUDGED and DECREED that Plaintiff has not complied with the Order of this Court, entered on September 24, 1984, requiring Plaintiff to file amended or revised pleadings which conform to the Maryland Rules on or before October 22, 1984; and it is further

ORDERED, ADJUDGED and DECREED that as Plaintiff's Third Amended Complaint does not comply with the Maryland Rules aforesaid, it is hereby stricken; and it is further

ORDERED, ADJUDGED and DECREED that, as Plaintiff is to be afforded no further leave to file amended pleadings under the Court's Order of September 24, 1984, and as all Plaintiff's pleadings have been stricken, the cause pending herein be and hereby is dismissed, with

prejudice. Costs to be paid by plaintiff.

MARTIN A. WOLF
Judge, Circuit
Court for Anne
Arundel County

IN THE CIRCUIT COURT FOR

ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE, JR.	:	Record - 239
Plaintiff	:	
vs.	:	No. 3106024
ST. JOHN'S COLLEGE,	:	Entered
et. al.	:	2-1-85
Defendants	:	

ORDER

ORDERED, ADJUDGED, and DECREED that Plaintiff's Motion to Alter or Amend Judgment, filed herein on January 21, 1985, be and hereby is stricken; and it is further

ORDERED, ADJUDGED and DECREED that this Court's Order of January 10, 1985, dismissing the cause herein, is in full force and effect.

JUDGE

UNREPORTED
IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 333

September Term, 1985

ARTHUR K NGLE, JR.

-

V.

ST. JOHN'S COLLEGE, ET AL.

Moylan
Garrity
Bell, Rosalyn B.

PER CURIAM

FILED: November 26, 1985

k - 8

Arthur Kungle, Jr., initiated an action in the Circuit Court of Anne Arundel County against St. John's College and several of its officers and trustees. Kungle filed four sets of pleadings with the court below: a "Complaint and Demand for Jury Trial," and "Amendment of Bill of Complaint," and "Amended Complaint According to Pre Trial Conference: and a "Revised Complaint." In addition, he filed an "Amendment of Caption," and "Amendment of Complaint or Pleadings to Show Correspondence" with twenty-eight attachments, a "Correction of Amendment of Complaint or Pleadings to Show Correspondence Which was Presented at Hearing on Motions," a "Supplement to Revised Complaint," and a "Supplement

to Correspondence Appended at Hearing."

On three separate occasions St. John's moved to strike Kungle's pleadings, submitting that his pleadings were unintelligible and not in compliance with the Maryland Rules. After Kungle's fourth attempt to amend, the court struck his last pleading and dismissed the complaint with prejudice. The court noted:

> "THE COURT: That not for one moment do I doubt the seriousness of the Plaintiff Arthur Kungle in this matter. And I don't doubt that he has been diligent and worked hard to try and perfect a claim against Saint [sic] John's College and other defendants named in his pleadings. As I pointed out at the last hearing, the law is complicated. It's not easy. One cannot always sit down and draft a proper pleading,

[1/2]

nor can one always draw articles of incorporation or other legal documents unless one has some training or is awful lucky and skillful to [sic] -- both together, being skillful is the ability to research and lucky that you've done it right. In this case, there have been a number of pleadings that have been filed. And the last time you came it, I gave the Plaintiff the right to within thirty days to file an amended bill in this case with an intelligible one which could be responded to, and one that could bring the case into a posture where the defendants could answer and put the case at issue. I am never one to throw out cases on minor defects. And if you're talking margins don't meet the requirement, if the paper's a quarter of an inch shorter, that's never going to be grounds to throw out a case. The idea being that litigants should get their day in court. They should have a right to come in and have their complaint heard. Now at the last time, I suggested to the Plaintiff that he ought to [get] legal assistance, that the matters from I tried to glean from his argument that he wished

> to raise were not properly raised. They were in a position or placed there on paper in a manner that on one could really understand them. And since then, he has filed an amended or revised complaint. That I as well as my staff have gone over this and I can't get heads nor tails out of it, much like the defendants in this case. That I can't determine the exact nature of his complaint, what relief he says he's entitled to. It reads with a lot of citations and quotes, but the bottom line, what is this case about, and I cannot determine."

2/3

Mr. Kungle moved to alter or amend the judgment. The court stuck the motion and declared its original order in full force and effect.

Mr. Kungle seeks here to appeal the denial of his motion. In response, St. John's College has presented us with two motions to dismiss Mr. Kungle's appeal.

Normally at this juncture we would set our a brief exposition of the issues and facts surrounding the controversy. We are incapable of doing so here. We have considered the briefs, appellant's record extract, appellant's reply brief and the complete record itself. We are unable to answer the seven questions raised by appellant primarily because we are unable to distill the issues presented. Of even more immediacy, we are unable to provide the reader with a statement of the facts in this case. We are baffled about what did transpire between appellant and the college, and it is not our function to speculate on the validity of appellant's contentions. We are regrettably left with no alternative

but to dismiss this appeal.

Appellees first move to dismiss this appeal pursuant to Rules 1031(a) and (c) and 1035(b)(7). Rule 1031.a sets out the required style of an appellate brief, with reference to the bond of paper, width of margins, typespace, and color of the cover. Subsection (c) of the rule, in part, provides:

"Contents of Appellant's Brief.

* * * * * * * *

" 2. Statement of the Case - Questions Presented.

"...The statement of the questions presented shall indicate the legal propositions involved and the questions of fact at issue expressed in the terms and circumstances of the case without unnecessary detail."

* * * * * * * *

"4. Statement of Facts.

A clear and concise statement of the facts material to a determination of the questions presented ...."

"5. Argument.

Argument in support of the position of the appellant." Rule 1035(b)(7) allows for dismissal of an appeal if the style, contents, size, format, legibility or method of reproduction of a brief, appendix or printed record extract does not comply with Rule 1031.

As we stated in Kemp-Pontiac-Cadillac v. S & M Constr., 33 Md. App. 516 (1976):[4/5]

> "These rules are to promote the orderly and effective administration of justice. They are to be read and carefully followed by [litigants]. Whether to dismiss the appeal or not in the event of violation of the above rules, rests in the discretion of this Court."

Id. at 521.

Appellees contend that appellant's brief is replete with style violations of Rule 1031(a) including illegible duplications and merger of the statement of facts with the argument. They further maintain that the "disjointed, scatter-shot nature of Kungle's argument, assertions and prose makes Kungle's brief virtually incomprehensible" under subsection (c).

While we might be inclined to bend this Court's procedural rules to accomodate a litigant representing himself, we cannot condone the manner in which appellant has subverted our procedure in the presentation of this case. Appellant has supplied us with incomprehensible, disorganized briefs

and record extract. His submission is inundated with violations of the mandatory rules of appellate procedure. It is not our function to search through the record to extrapolate the true nature of the issues. [5/6] Harman v. Harman, 61 Md. App. 554, 558 (1985). Nor are we empowered to determine the facts or arguments outside the confines of the case.

By way of example, the following excerpt was extracted from appellant's brief wherein he attempts to explain reference to international documents in his pleadings.

> "The reason for arguing international agreements, as we said or attemped to be said, in the 2nd (XII) & 3rd (XI) complaint and attempt to satisfy the good judges, was primarily "to inform and

infuse our domestic documents where they are lacking. (And perhaps Conway v. Social Services Admin 298 Md. 639, 650, agrees with Maryland's Declaration of Rights. See also, Paust, Human Dignity as a Constitutional Right, 27 Howard 145.) In the last complaint, references to the American Declaration of the Rights and Duties of Man, Art 26, was to a principle, which as Kilty was afraid, some have forgotten: presumption of innocence. Reference to 11.a.VII of the Helsinki Accord, on freedom of association, expression and conscience, repeats properly what we should have grown to. In 1776 Maryland's original draft of freedom of religion clause, was one for freedom of conscience. And even earlier Lord Mansfield, who opposed the American Revolution, is reported to have said "Conscience, my lords, is not controllable by human laws, nor amenable to human tribunals, persecution, or attempts to force concience, (sic) will never produce conviction, and can only be calculated to make hypocrites or martyrs." (American's friend) Lord Camden was said to rejoice to hear such noble sentiments.

(From a colleague he did not expect it from.)"

The attached appended page 6/7 was duplicated from the appendix attached to appellant's reply brief. He provides us with no introduction or explanation to it.

It is unfortunate for appellant that we are unable to decipher these paragraphs or the balance of his argument. There is no question in our minds that appellant has made serious and substantial attempts to conform with the procedural rules at the trial land appellate levels. It is clear form the 25 page brief with 12 page appendix, the 16 page reply brief with 11 page appendix, the 240 page record extract, the 59 case

citations, the 52 references to authoritative works including citations to "Ly Raym" and Cokes Reports," the references to the Maryland Rules, the federal and state constitutions, the federal rules, the Magna Carta, and various international documents, that appellant has spent uncountable hours in preparation of this case. Nevertheless, the law is not easy to understand, not is intricate procedure easily congnizable.

We do not dismiss appellant's efforts lightly. We understand that appellant is agrieved because he was excluded from the grounds of the school. We cannot discern from the brief, the extract or the record the relief he seeks or the basis upon

which he claims the court could grant any relief. So far as we can determine should we entertain appellant's assertions and reinstate his complaint, appellees and the court will be not more enlightened than before. Appellant was given numerous chances below to rectify his pleadings and failed each time. Our consideration of the procedural history of this case convinces us that appellant would not, if given another chance, be capable of submitting legally adequate pleadings. Regretfully, we dismiss this appeal pursuant to Md. Rules 1031(a)(c) and 1035(b)(7).1.

APPEAL DISMISSED. COST TO BE PAID BY APPELLANT.

1 Because of our ruling, we do not consider appellees' second motion to dismiss or the merits of this controversy.

MANDATE

COURT OF SPECIAL APPEALS

OF MARYLAND

Arthur Kungle Jr.

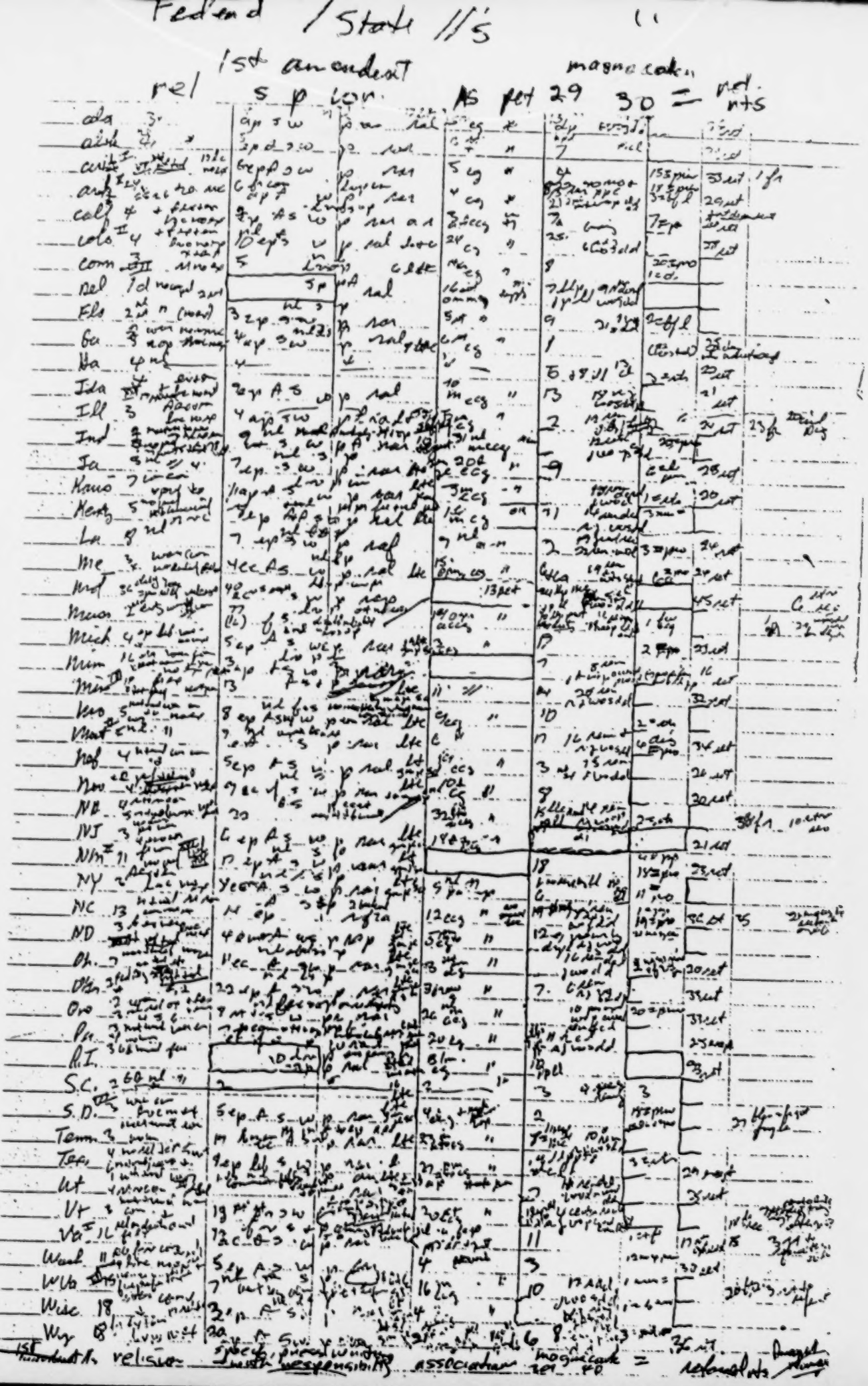
v.

St. John's College et al

No. 330, September Term, 1985

November 26, 1985: Per Curiam filed. Appeal dismissed. Costs to be paid by appellant. December 23, 1985: Motion for Reconsideration filed by appellant. December 30, 1985: Motion for Reconsideration denied.

December 30, 1985: Mandate issued.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(k)(iii) In the

Court of Appeals

of Maryland

(Entered 3-10-86)

ARTHUR KUNGLE, JR.

v.

ST. JOHN'S COLLEGE et al.

Petition Docket No. 574

September Term, 1985

(No. 330, September Term, 1985

Court of Special Appeals)

ORDER

Upon consideration of the

etition for a writ of certiorari to

the Court of Special Appeals in the above entitled case, and the answer filed thereto, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

s/s Robert C. Murphy
Chief Judge

Date: March 10, 1986

ST. JOHN'S COLLEGE (k)(iv)

Annapolis, Maryland 21404

Record - 96

May 22, 1981

Mr. Arthur Kungle

49 College Avenue

Annapolis, Maryland 21401

Dear Arthur,

I was glad to talk with you this morning about the matter of your relationship to the Annapolis campus of the College. And, as I said during our talk, I want now it put in writing the things I told you then about how that relationship must develop in the future. I need not

say again how much I dislike having to write in this vein, and especially to you.

1. you do not belong on the St. John's Annapolis campus, and therefore, pending another arrangement not yet made, I do not expect to see you on it any more. You may, however, for the rest of the summer, until Labor Day, and for the sake of terminating the projects on which you are now engaged, come on campus

   a. to monitor your air pollution measuring equipment on the roof of FSK;
   b. to complete the pollination procedures for the tulip and holly trees;
   c. to complete your projects involving the flowers and

plants you are growing in Mellon 203;

d. to tend to the roses and other flowers you have been taking care of on campus and especially the ones around Reverdy Johnson and the newly planted ones; and

e. to inspect the campus trees for the gypsy moth and the Dutch Elm disease.

You are not to go into any campus building except FSK and the Coffee Shop in McDowell Hall during the summer. There will no longer be a mailbox with your name on it, and all mail addressed to you at the College will be sent to 49 College Avenue. You should inform correspondents of this.

2. I will explore with the

President the possibility of your being offered a part-time position (20 hrs/week maximum) with the College in the fall for the purpose of working with the flowers, plants, and trees on campus. You may want to think about this too.

Arthur, it goes without saying that I thank you deeply for all the time, love, and energy you have put into the living beings on this campus over the years. You know, I think, that I only write this letter because it seems best, in view of some of the events of the past and present, but especially of the possible ones in the future, that we determine jointly, and now, that the time has come for a new beginning for you. This may, possible, involve the definition of a genuine place for you

in this community, a community for whose inner and outer good we both care so much.

As I told you, I am sending a copy of this letter to Mr. Delattre. I am also sending it to other persons who have some concern about the matter.

With all good wishes for you, Arthur, always, I am,

Very sincerely yours,

Edward G. Sparrow

Dean

cc.

Mr. Delattre
Mr. Milner
Mr. Wilson
Mr. Smith
Mr. Littleton
Miss Leonard
Mr. Dalrymple
Mrs. Kinzer
Mr. Jacobsen
Mrs. Mitchell
Mrs. Easterday
Mr. Elsey
Mr. Parran
Mr. Christensen
Mrs. Mylander
Dr. Kinzer
Mr. Maistrellis

Dear Dean Sparrow,

In response to the communications of 22 May 1981: the letter of that date seems to be in error and denotes confusion on your part: it is not addressed to me but to my father; relationships at St. John's College, Annapolis campus, are not properly determined by your flat; and it did not say what you said in what was less a talk than judgement following inquisitorial proceeding--which is well described by Hume where "the orimate, making himself, as was usual in spiritual courts, both judge and party, issued in summary manner the sentence of excommunication."

More particular wrongs are: Air

pollution monitoring is done by the state health department. Plants, gardens and the mailbox have been activities of the garden club. Holly and tulip tree pollination were functions of the Lush holly endeavor and the Liberty Tree Project. I suggest you contact these organizations about stopping their work. As for me, I gave up gardening at St. John's at your command: "if you can't agree to our terms, let everything die." Many maturing trees & shrubs in the garden club's nursery were thrown, given or stolen away--except the first, in violation of the agriculture distribution laws. Such was the fate of flowers for the fall to grave the campus and

student and alumni gardeners. Roses, shrubs and trees were unfortunately abandoned to insects, disease and decay.

With regard to limited access to the campus: by the civil rights, public accomodation and historic district laws, and without posted rules, citizens are free to visit the campus: by state and federal Health and Civil Defense laws: agents have right of entry; ;and finally by the policy of the college (art. I & XIII): alumni are members of the community unlimited by space or time, except by the Maryland Declaration of Rights (henceforth MDR)--this has not been observed.

The lure of a part-time job at $30 an hour or more is strong. It certainly would be a relief. But the

conditions of employment stated are to correct my being and doing: namely my exercise of the fundamental freedoms of speech, press, religion, association and conscience. You want me to grow pretty plants for you, but to stay away from the people and to shut up about truth & justice, liberty & equality, and the educability of all people--or else "move, get out of town", "go care about some other place!". It is clear that what is wanted here is a way to keep me "in my place" and liquidate me if I do or say anything other than what you think and believe. This is a clear violation, besides the polity, of the Articles of Confederation and US Constitution on the mails, the charter, the Missouri and US Bills of Rights (and

a host of court decisions), the UN Declaration of Human Rights (especially art. 16-20, 27) and the 1975 Conference on Security and Cooperation in Europe accord (1.a.VII), on association and conscience, as well as and like MDR on the press and speech (art. 40) and religion (art. 36) and also article 24:

"That no mane ought to be taken or imprisoned or disseived, or deprived of his freedom, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property but by the judgment of his peers, or by the Law of the Land."

It may be pretended that the college is private and separate from the state, and such does its members

pretend to be above and beyond. But MDR of 1867 and today is derived from MDR of 1776 (thus 24 was:21, 40:38, 36:33; consider also 13:11, 19:17, 20:18, among others) and that was written by teh Carrolls, Chase & Paca, who later founded the college, before they decided on the form of government. Therefore, it is absurd to claim that the Maryland Signers of the Declaration of Independence did not mean MDR, with equal authority to the charter, to apply to the college. Moreover that Key Article 24(:21) was no mean August invention of theirs but is based on what was agreed to in 1215. As Hume says: "this famous deed, commonly called the GREAT CHARTER, either granted or secured very important liberties and privileges to every order of men in

the kingdom; to the clergy, to the barons, and to the people."

(per Magna Charta Cii test:39:40:

Nullus liber homo capiatur, vel imprisonetur, aut disseisatur, aut utlagetur, aut exuletur, aut aliquo mode destrustur, nec auper eum ibimus, nec super eum mittemus, nisi pe legale judicium perium avorum vel pe legem terre. Nulli vendemus, nulli negabimus sut differemus rectum aut justiciam.

Or as confirmed by statute in 1227:

Edward by the grace of god, King of England..Know ye that we..have given and granted to all archbishops, Bishops, Abbots, Priors, Earls, Barrons, and to all freemen of this our realm, these liberties following to be kept in our kingdom of England for ever.

(29) No Freeman shall be taken, or imprisoned, or be disseized of his Freehold, or Liberties, or free Customs, or be outlawed, or exiled, or any otherwise destroyed; nor will we not pass upon him, but by lawful Judgement of his Peers, or by the Law of the Land. We will sell no man, we will not deny or defer to any man either Justice or Right.)

"...the principal articles (were) calculated for the interest of the barons; and had the charter contained nothing further, national happiness and liberty had been very little promoted by it, as it would only have tended to increase the power and independence of an order of men who were already too powerful, and whose yoke might have become more heavy on

the people than even that of an absolute monarch. But the barons, who alone drew and imposed on the prince this memorable charter, were necessitated to insert in it other clauses of a more extensive and more beneficient nature: they could not expect the concurrence of the people without comprehending, together with their own, the interest of interior ranks of men; and all provisions, which the barons, for their won sake, were obliged to make, in order to insure the free and equitable administration of justice, tended directly to the benefit of the whole community."

You may be part of the leading element in the revolutionary party directing the new program and dictate to students and staff, if not lead

and direct by dialectic, but that is as much due to contract as to charter. Certainly alumni are not of your order, nor are we peers of Olympians, many of us have gone back to being simply Americans.

I can not in good conscience work for the ruling regieme at the college. What you call events are better termed calumny. If you have cause, then charge me, arrest me on sight. But I doubt you do. Do what you will, I give up gardening for now but I defend those truths of liberty, recognized from Runnymede to Helsinki by way of Annapolis and America, and therefore I declare that this attempt to banish me is null and void under articles 16 & 17, Chapter 37, Statutes or Acts of Maryland, 1784, and, as Reverdy Johnson said,

appealable.

May Heaven help humanity, God bless America, the Lord love the Liberty Tree, and save St. John's!

Sincerely,

Arthur Kungle, Jr.

cc:

Mr. Delattre
Mr. Milner
Mr. Wilson
Mr. Smith
Mr. Littleton
Mr. Dalrymple
Mr. Savcy
Mrs. Kinzer
Mr. Jacobsen
not Mrs. Mitchell
Mrs. Easterday
Mr. Daddario
Mr. Grey
Dr. Fox
Dr. Laguardia
Dr. Horvath
Mr. Ficco
Mr. Hartzell
Mr. Norton
Ms. Polk King
Mr. King
Mr. Szabo
Mr. Rada

Mr. Elzey

Mr. Parran

Mr. Christensen

Mrs. Myland

Dr. Kinzer

Mr. Maistrellis

Ms. Brown

Mr. Raditss

Mr. Zeiderman

Mr. Rote

Mr. Davidson

Mr. Clendenin

Mr. Plaut

Mr. Heal

& co.

AFFIDAVIT OF ROBERT VINCENT

Record Sept. 20, 1984

- 128

To Whom It May Concern:

I am a graduate of St. John's College, Annapolis, Maryland. I have known Arthur Kungle, Jr. for over four years. In my years at St. John's Mr. Kungle and I have become good friends. Based on this experience I wish to declare that Mr. Kungle was not a hazard to my education or personal growth, infact quite the opposite. Nor do I believe that Mr. Kungle had a hazardous effect on other students at St. John's College.

k - 40

I solemnly affirm under penalty of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Sincerely,

Robert F. Vincent

IN THE CIRCUIT COURT OF

ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE JR, ET AL.

Record

- 129

Plaintiff(s)

vs.

ST. JOHN'S COLLEGE, et al.

Defendant(s)

Case No, 3106024

AFFIDAVIT OF MARY PUTNIK

September 19, 1984

To The Honored Court:

I have know Mr. Kungle since I came to St. John's as a freshman in September 1980. During the time that Mr. Kungle was permitted access to the campus he was involved in such activities as assisting with the school drive, taking care of the flowers, participating in athletics,

and preserving the Liberty Tree. At no time have I considered Mr. Kungle, or these sorts of activities, to be "dangerous".

Rather I have know him as a person concerned about the students and issues pertaining to freedom and liberty. I know that during 1980 he had many friends on campus and was always willing to provide any assistance possible.

In closing, to the best of my knowledge and recollection, Mr. Kungle was not a threat or danger to the students of St. John's. I attest that the above statements are true.

Miss Mary Patrick

AFFIDAVIT OF JEFFREY WALL

19 September, 1984

Record - 131

Jeffrey D. Wall
70 Maryland Ave.
Annapolis, MD 21401

To Whom it may concern:

I, Jeffrey D. Wall, hereby submit in writing my statment affirming the good character of Arthur Kungle, Jr.; the decency and civility of his speech and actions; and the honorable expressions of his kindness and compassion.

Mr. Kungle and I have been friends for over five years. I can attest to the fact that he is in no way a danger to any person, nor has he in that time ever been a danger to any person. He has not violated any

common code of behavior or any regulated mode of behavior; rather he has vehemently upheld the law and morale and traditions of our society. Never have I know him to intend or carry out or bring about an injustice upon any individual or community. His ethical and moral values are well know and greatly respected by me.

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

Sincerely,

Jeffrey D. Wall

IN THE CIRCUIT COURT OF

ANNE ARUNDEL COUNT, MARYLAND

ARTHUR KUNGLE JR, ET AL.

Record

- 132 Plantiff(s)

vs.

ST JOHN'S COLLEGE, el al.

Defendant(s)

Case No. 3106024

AFFIDAVIT OF

JEREMY LAUER

It seems odd to me that my rights of freedom of speech, association and thought have been abridged insofar as Arthur Kungle and myself have not been permitted to exercise these rights on the campus of St. John's College, Annapolis, Md. As I am a student and Mr. Kungle, an alumnus and a man of admirable moral character, and St. John's an

institution of education, thought, and learning, not only in the classroom but also insofar as it allows dialogue between thinking individuals, it seems to me that St. John's has acted ultra vires in not permitting Mr. Kungle on campus.

Witness

Nathan Walker

Douglas Seny

Jeremy Lauer

IN THE CIRCUIT COURT FOR

ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE JR el al

Record Plantiff(s)

- 176 vs.

ST JOHN'S COLLEGE et al

Defendants

No. 3106024

AFFIDAVIT

My education at St. John's College, Annapolis, Md. was in no way prevented or disrupted by the plaintiff, Arthur Kungle. My security was never put at hazard, nor was my life every put in danger by the Plaintiff.

I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING PAPER ARE TRUE TO THE BEST OF MY KNOWLEDGE,

INFORMATION, AND BELIEF.

Mark M. Ainsworth

Commonwealth of Massachusetts

County of Worcester

On the 31st day of December, Mark Ainsworth appeared before me at Athol Massachusetts, swore to the truth of the above and signed before me.

Robert W. Peterson

Notary Public

My commission expires:

December 12, 1981

IN THE CIRCUIT COURT FOR

ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE JR el al

Record Plaintiff(s)

- 177 vs

ST JOHN'S COLLEGE et al

Defendants

No. 3106024

M. L. COUGHLIN

Editorial Services

31 Maryland Ave.

Annapolis, MD 21401

(301) 269-0978

January 5, 1985

To whom it may concern:

This is to attest that, during the time I was a student at St. John's

College (September 1969 to June 1973), I was well acquainted with Mr. Arthur Kungle of Annapolis, and at no time did Mr. Kungle disturb or impede the progress of my studies at St. John's.

J. L. Coughlin

IN THE CIRCUIT COURT FOR

ANNE ARUNDEL COUNTY, MARYLAND

ARTHUR KUNGLE, JR.,

Record Plaintiff

- 178 v.

ST. JOHN'S COLLEGE, et al.,

Defendants

No. 3106024

AFFIDAVIT OF MARK W. KELLEY

I, Mark W. Kelley, a resident of San Francisco, California, do hereby state:

1. The matters stated herein are made upon personal knowledge, and I am competent to testify as a witness to same.

2. I am an attorney at law, employed in San Francisco, California. k - 52

3. I attended St. John's College, defendant herein, during the academic years of 1975-1975.

4. While a student at St. John's, I had occasion to come into contact with Arthur Kungle, Jr., plaintiff herein. Mr. Kungle at that time enjoyed free access to the campus and various functions held there.

5. I found Mr. Kungle to be an interesting and worthwhile addition to the college environment. He was a bright and literate man who provided a welcome viewpoint on topics academic and general; a benefit, rather than a hindrance, to my education. He was, further, an essential part of the athletics program. In my experience, he at no time constituted a hazard to personal

safety or a disruptive influence in the legitimate operations of the college.

6. I solemnly affirm under penalties of perjury upon personal knowledge that the contents of the foregoing paper are true.

Dated: December 28, 1984

Mark W. Kelley

Friends of Liberty know the importance of frequent Recurrence to fundamental Principles, Inc.

Appellant's Brief Apx. 26

50 Maryland Ave.
Annapolis,
Maryland 21401

410 S. State St.
Dover,
Delaware 19901

March 25, 1984
Maryland Day
on her 350th anniversary
Draft of note on Due Process of Law and Maryland's successor clauses & statutes to the Great Chapters of Magna Carta.

The principle that no person shall "be deprived of life, liberty or property, without due process of law" is stated in the 5th and 14th Amendments to the United States of America's (federal) constitution. Maryland was earlier founded on preceding principles: in its Declaration of Rights in 1776: 21. That no freeman ought to be taken or imprisoned, or disseized of his

freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty or property, but by any manner destroyed, or deprived of his life, liberty or property, but by the judgement of his peers, or by the law of the land; (1984 MDR, Art. 24); & 17. That every freeman, for any injury done to him in his person, or property, ought to have a remedy by the course of the law of the land, and ought to have justice and right, freely without sale, fully without denial, and speedily without delay, according to the law of the land. (1984 MDR equivalent, Art 21). These articles are direct descendants of, and almost word for word translations of, chapters 39 & 40 of Magna Carta (which, according to Daniel Dulaney,

The Right of the Inhabitants of Maryland to the Benefit of the English Laws (in A.E.D. Howard's The Road from Rynnymede), article "is not long, and ought to be read by every Body, and (in my humble Opinion,) taught to Children, with their first Rudiments..." Almost all other states have similar provisions in their state or commonwealth constitutions. And these principles have been discovered or decided by courts as part of common law, or the "rule of natural rights" (See Okeck: Non-profit Corporations), and perhaps this is especially true in regions without articulate constitutional provisions. But Maryland has more: Chancellor Kitty at the request of the legislature decided (A Report of all such English Statute..., 1811,

compare Art 5 (Art 3, 1776) that Magna Carta, a Confirmation of Liberties, was Found Applicable but not proper to be incorporated because (in this case) they were "established by our own declaration in 1776" and considering "the propriety of resting our rights upon our own charters..." but 28 Edw. III, Cap 3, (1354) (No person shall be condemned without his answer) is a Statement Found Applicable for the "long enjoyment of a right may make people forget the origin of it": "That no man of what Estate of Condition that he be, shall be put out of Land or Tenement, nor taken, nor imprisoned, nor disinherited, nor put to Death, without being brought in answer by due Process of Law". ("Item qe nul homme de quel estate our condicion

qil soit ne oit oste de terre de de tenement ne pris nemprisons ne desherite ne mis a la mort saunz estre mense en respos par due proces de lei." Coe's Alexander's British Statutes in Force in Maryland (1912). This statute is cited by F. W. Maitland The Constitutional History of England, (II c Administration of Justice) perhaps as an early reference to the term "due process".

A. Kungle Jr for
Friends of Liberty

Appellant's

Reply Appendix iii

LIFE OF LORD CAMDEN (APPENDIX)

Lord Camden's Judgement in

Shipley's Case

Of the collections which George Hardinge had made of his uncle's speeches, &c., there is only preserved his judgement in "Shipley's appeal," characterized by him as "one of the noblest compositions in the world." The case has lost much of its interest, and the details of it would not be tiresome; but some passages from it must ever be read with delight and instruction.

The apellant, a yound man at the

University, had been expelled from his college for the supposed offence of publishing a libel, aggravated, as his accusers and judges chose to say, by his being guilty of "general immorality." The college being a royal foundation, he appealed to the King as visitor. The appeal was heard by the Lord Chancellor, who, in giving judgment, thus began: -

"This jurisdiction is exercised in the right of the King as visitor. It is, in its nature, very peculiar. It is a despotism uncontolled, and without appeal; the only one of the kind which is known in this kingdom.

"I contemplate with pleasure so numerous an assembly, as there is no restraint upon the visitor but his own character.

"I am called upon to annul, to alter, or to sustain, the sentence passed on Mr. Shipley, the appellant. It is a judgment against this young man, which carries in it a most heavy accusation. It not only convicts him of the first charge, but adds to it a character of `general immorality'.

"Mr. Shipley, in his appeal, relies on three objections: - 1. That the proceeding against him has been irregular. 2. That the proof was insufficient. 3. That the punishment is excessive.

"As to the first point, he says he was not duly charged; that he had not a fair hearing; and that he was not suffered by his accusers to adduce evidence in his defence. I shall not

proceed in this case as in appeals from an inferior to a superior jurisdiction by a writ or error, where nothing is to be argued but what appears upon the record. For having all parties before me, and a power of juding de novo, I shall do complete justice by punishing, as I ought, the delinquent on the one hand, and by censuring, or by punishing, the behavior of the College on the other, if it be such as I do not wish to see repeated."

Having stated the steps in the process he says, "Not considering here the import of the evidence, I shall pronounce that Mr. Shipley was condemned unheard, and without such previous trial as natural justice required. Whether any fact was

proved against him or no, is not in this view of the subject material. Such a mode of proceeding is never to be justified or allowed by a Judge. It is a natural principle of justice engraved upon the heart - not acquired from booklearning - that no one is to be condemned unheard.

"It is no apology for these learned gentlemen to allege their ignorance of the municipal code. Let any one of them now lay his hand on his heart, and say he sincerely believes that Mr. Shipley's witnesses to prove his innocence, ought to have been rejected.

I could wish that persons who are intrusted, for ingenuous purposes, with a despotic power over youth, would understand the first principles

of justice. Were it a case of ordinary discipline, or of customary punishment, I should in this domestic forum, turn a very deaf ear to complaint, though as representing the royal visitor, I can reverse any act. I should wish, in all such cases, to leave the governors of a college almost absolute. But in the case of expulsion, I wish for temper, and I must have it, for I must claim it. That punishment is extreme. It is capital. It inflicts academic death. An independent member of the college is, by this mark upon him, sent home degraded, striped of his degrees, and of advantages in certain professions. He comes into the world introduced by odium of character. I should expect that a proceeding, to

be attended with such consequences, should be regularly instituted, should be conducted with temper, should be supported by solid proof, and be satisfactory to all reasonable minds.

"The next branch of the charge, imputing `general immorality,' is liable to heavier animadversion. It is most extraordinary that Mr. Shipley, after his first examination, in which this imputation had never been mentioned, should have a sentence read against him which convicts him of `immoral habits' unheard, unaccused, unprepared. I am free to assert, that in this part of this proceeding the respondents have behaved extremely ill; and when I consider the learning of these

gentlemen, I am astonished at the fact which proves them to have branded a young man's character for ever, as far as their power extended, without putting him on his defense."

He then, as if a Judge in the first instance, enters into the merits of the case, and, upon an examination of the evidence, having acquitted the appellant of the charge of publishing the libel, comes to the "general immorality;" - "No one can appreciate the extent of this charge. What is it? or what is it not? It includes atheism, baseness, want of probity. If it had stood, it would have ruined this young man for ever. But I pronounce, that no proof maintains this charge; and I am bold enough to add, that in making it, the Dean and

Chapter have infringed the first principles of common justice."

J. Campbell,

Lives of the Lord Chancellors,

(Philadelphia, 1851,

2nd American after 3rd English edition)

Supreme Court, U.S.
FILED
JUL 3 1986
JOSEPH F. SPANIOL, JR.
CLERK

NO. 85-2018

IN THE SUPREME COURT OF THE
UNITED STATES

OCTOBER TERM, 1985

ARTHUR KUNGLE, JR.

Petitioner

v.

ST. JOHN'S COLLEGE, et. al.

Respondents

ON PETITION FOR WRIT
OF CERTIORARI
TO THE COURT OF APPEALS OF MARYLAND

RESPONDENT'S BRIEF IN OPPOSITION

BENJAMIN R. WOLMAN
WOLMAN, GUSHEE & NEWMAN
14624 Main Street
Upper Marlboro, MD 20772
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STATEMENT OF THE CASE

Arthur Kungle, Jr. initiated an action in the Circuit Court for Anne Arundel County against St. John's College and several of its officers and trustees. Mr. Kungle filed numerous pleadings in the forms of Complaints, Amended Complaints, and Revised Complaints. On each separate occasion, St. John's moved to strike Mr. Kungle's pleading on the basis of their being unintelligible and not in compliance with the Maryland Rules. Subsequent to Mr. Kungle's fourth attempt to amend, the Court struck his last pleadings and dismissed the Complaint with prejudice.

Mr. Kungle then moved to alter or amend the judgment and the Court struck the motion and declared its

original Order in full force and effect.

Mr. Kungle then appealed the denial of his Motion.

Mr. Kungle filed a brief and St. John's College presented a brief including two Motions to Dismiss.

The Court of Special Appeals, in a per curiam opinion filed November 26, 1985, granted St. John's College's Motion to Dismiss.

Mr. Kungle then filed additional pleadings entitled Motion to Rescind the Dismissal and Reinstate Case and a separate Motion for Reconsideration. The Court of Special Appeals entered its mandate on December 30, 1985 in favor of St. John's College.

Mr. Kungle subsequently filed a Petition for Writ of Certiorari in the Court of Appeals of Maryland. That

Court denied certiorari on March 10, 1986.

GROUNDS FOR DENIAL OF WRIT

Rule 17 of the Supreme Court Rules describes the necessity that a case to be presented to this Court only where there are special and important reasons, in particular, when a state court of last resort has decided a federal question in conflict with other courts. Mr. Kungle, in his petition to this Ccurt, has failed to clearly and distinctly, with accuracy, brevity and clarity, define the jurisdictional basis of his petition. The Courts of the State of Maryland, throughout the proceedings, have done everything in their power to assist Mr. Kungle in filing a proper pleading. No federal questions have been decided by any of the lower

courts in this case. The trial court allowed Mr. Kungle four different opportunities to file a proper complaint in compliance with the Maryland Rules and sufficient to put the parties and the Court on notice as to the nature of his complaint and the relief requested. The Court of Appeals attempted to review Mr. Kungle's Brief, Appendix, and Reply Brief. Both Courts have been unable to determine the nature of Mr. Kungle's complaint in a manner that would allow for judiciability and decision by proper legal procedures. The Court of Special Appeals, in its opinion of November 26, 1985, dismissed Mr. Kungle's appeal on the basis that he failed to comply with the rules of the Court in filing his appeal. The Court made an effort to

understand the nature of his complaint, both at the trial level and at the appellate level, but was unable to determine the legal basis of his complaint. The Court of Appeals of Maryland, upon reviewing a Petition for Writ of Certiorari, found that there was no showing that review by certiorari was desirable and in the public interest.

Similarly here, in his Petition for Writ of Certiorari, Mr. Kungle again exhibits his inability and failure to provide legally adequate pleadings which comply with the rules of Court. Although Mr. Kungle has obviously put substantial effort into preparing his documents, it is clear that no review by this Court or any Court will benefit the public interests nor provide a sufficient

determination of the issues to present a case for substantive determination.

CONCLUSION

The Respondents, St. John's College, et. al., respectfully pray that this Court decline to review this case.

Respectfully submitted,

WOLMAN, GUSHEE & NEWMAN

By: Benjamin R. Wolman
Benjamin R. Wolman

14624 Main Street
Upper Marlboro, MD 20772
(301) 627-1080

CERTIFICATE OF SERVICE

This is to certify that on this 7th day of July, 1986, three copies of the foregoing were sent to Arthur Kungle, Jr., P. O. Box 365, Annapolis, Maryland 21401, via first class mail, postage prepaid.

Benjamin R. Wolman
Benjamin R. Wolman

Supreme Court, U.S.
FILED
JUL 10 1986
JOSEPH F. SPANIOL, JR.
CLERK

(6)

NO. 85-2018

IN THE SUPREME COURT OF THE
UNITED STATES

OCTOBER TERM, 1985

ARTHUR KUNGLE JR,

Petitioner

v.

ST. JOHN'S COLLEGE, et al.,

Respondents

ON PETITION FOR WRIT
OF CERTIORARI
TO THE COURT OF APPEALS OF MARYLAND

PETITIONER'S REPLY BRIEF TO RESPONDENT'S BRIEF IN OPPOSITION

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35 Maryland Attorney General's Opinion
(1950), 154 5

12 Moore's Federal Practice (1982) 5

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Vinson, 69 S. Ct. v (1949) 4

Correction of Misstatements of the Case

Respondent's Brief in Opposition fails to meet the contentions of this Petition, and also misstates the record. As summarily as possible this seems to include:

a. Two attempts--not four--were made to improve the complaint as requested by two judges (Record = R) R-54, 133.

b. Respondents first demurred--not moved to strike, arguing failure to state claims, causes, facts, relief, as well as laches R13-14.

c. Appeal was from denial of motion to alter and underlying order, R 239, 240, however "inept" Foman v. Davis, 371 U.S. 178, 181 (1962).

d. Motion for reconsideration included requests for rescinsion and reinstatement. Motion i.

e. Respondents and middle court--at least--indicated understanding Transcript 32, and evasion, Appellee's Br. 25-26, Ct. of Sp. App. Op. at 7, of issues on constitutions and more.

Reply to Grounds for Denial of Writ

a. Petitioner showed conflicts, and questions of importance, validity and repugnance, 28 U.S.C. 1257, Supreme Court Rule 17. Stern & Gressman, Supreme Court Practice(1986), 373. Respondents denied.

b. This Petition contains

> appropriate references to the record and present(s) with studied accuracy, brevity and clearness (Furness v. Yang-Tze, 242 U.S. 430, 434 (1917) for

what seems to be essential. Respondents make none.

c. The lower court promised "different standards" for opposing attorney and petitioner who is not (Transcript 24). But Maryland Courts, contrary to Respondents, denied discovery, held pleading strictly against the pleader, overlooked fibbing, relied on hearsay and vague proffers, and on assertions never proved, and avoided and evaded conflicts, constitutions, treaties, and more. The Record herein. This was hardly help for the petitioner.

d. Whether the pleadings were legally adequate Maryland's Court of Appeals was in no position to consider on petition because they, unlike this Court, do not require any record of questions.

e. When Respondents demur failed they switched to saying 'we don't understand 'cause we don't want to understand, and you can't make us' (admit that we understand). This superb stonewalling offers new avenues for litigation. Yet, this Court may recall similar efforts to deter this Court by Mr Kazenbach and Mr Peterson on oral argument respectively in Princeton v. Schmid, 455 U.S. 100 (1982), & Kolender v. Lawson, 103 S.Ct. 1855 (1983).

f. Petitioner has tried to defend

> tremendously important principles, upon which are based the plans, hopes, and aspirations of a great many people throughout the country, 69 S. Ct. vi (1949)

and, imperfectly, liberty and justice for all. *

---

* An Amicus Curiae could not be entered due to Respondent's Brief being post marked on July 1, 1986, while service was certified for July 7, 1986--as noted to the Clerk's office before that date.

Maryland's Attorney General disclaims interest because supposedly St John's College is a private corporation (Contra: 35 Maryland Attorney General's Opinion (1950) 154) and no state concern is involved (Contra: 12 Moore's Federal Practice (1982) ¶ 514.01).

And while just before the lower court's dismissal , it said: "go to American Civil Liberties Union," now as then, other things seem more important than all this. (7-43)

CONCLUSION

The Petitioner, Arthur Kungle Jr, respectfully requests that this Court grant this petition, and do whatever is right and proper.

Respectfully submitted,

Arthur Kungle Jr
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Annapolis, Md 21404
(301) 263-9080
Pro se

Certificate of Service

This is to certify that on this 9th day of July, 1986, three copies of the foregoing were sent to Benjamin Wolman, Wolman, Gushee & Newman, 14624 Main St., Upper Marlboro, Md, 20772, counsel for the Respondents, via first mail, postage prepaid. And this is so affirmed under penalty of perjury.

Arthur Kungle Jr

Statutes: 28 U.S.C. § 1257.

State courts; appeal; certiorari

Final judments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:

(1) By appeal, where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity.

(2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

(3) By writ of certioriri, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution, teaties or laws

of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States.

For the purposes of this section, the term "highest court of a State" includes the District of Columbia Court of Appeals.

Rules: Supreme Court Rule 17.1 (b & c)

Considerations Governing Review on Cert.

.1 A review on writ of certiorir is not a matter of right, but of judicial discretion, and will be granted only when there are special and important reasons therfor. The following, while neither controlling nor fully measuring the Court's discretion, indicate the character of reasons that will beconsidered.

(b) When a state court of last resort has decided a federal question in a way in conflict with the decision of anorther state court of last resort or of a federal court of appeals.

(c) When a state court or a federal court of appeals has decided an important question of federal law which has not been, but should be, settle by this Court, or has decided a federal question in a way in conflict with applicable decisions of this Court.

Supreme Court, U.S.
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NO. 85-2018

IN THE SUPREME COURT OF THE
UNITED STATES

OCTOBER TERM, 1985

ARTHUR KUNGLE JR,

Petitioner

v.

ST. JOHN'S COLLEGE, et al.,

Respondents

ON PETITION FOR WRIT
OF CERTIORARI
TO THE COURT OF APPEALS OF
MARYLAND

PETITIONER'S SUPPLEMENTAL BRIEF

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Supreme Court Practice (1986) 1

Note: Texts are newly available in hardbound volumes. It is hard to keep track of the paperbounds.

Stern, Gressman & Shapiro, Supreme Court Practice (1986) 394 encourages this brief about possibly relevant new factors:

1. Parties. Some respondents have changed positions in the corporation, such as Bryce Jacobsen (inadvertently misnamed before--a danger of proofing one's own writing). He has retired as tutor but remains an alumnus, the situation with regard to the others is peculiarly within their knowledge, and not with certainty by petitioner.

2. Opinions below have been reported. Thus: Pet. #574, Sept. Term 1985, cert. denied, 305 Md. 599 (1986), this petition: 85-2018. (Related is Pet. #648, Sept. Term 1985, cert. denied, 306 Md. 70 (1986), related petition: 86-52, in order to keep record whole.)

3. Maryland Rules involved changed, this July. Md. Rule 2-322 (b) & (c) mostly switched parts about early dismissals. But material differences, reliance on hearsay, and not favoring the movant, among others, remain issues. It is

better to encourage good faith efforts (Transcript 55), Schaedler v. Reading Eagle Pub., 370 F. 2nd 795, 799 (1967) than to dismiss, as in this controversy.

4. Maryland Court Rules follow federal rules and precedents, G & H Clearing and Landscaping v. Whitlock, 66 Md.App.348,353-5,503 A.2nd 1379, 1382 (1986). And that relies on Sisk v. Texas Parks and Wildlife, 644 F. 2nd 1056 (1981), which relies on the authorities and Conley v. Gibson, 355 U.S. 41 (1957)--which this petitioner below (App. Br. 12-13) tried to contrast to Holsey v. Collins 90 F.R.D. 122 (1981). G & H, supra, 354, agreeing with plaintiff below Record 160, states that motions for more definite statements are the proper response to vaguness, or unintelligibility (Resp. Br. in Op 1), Scarbrough v. R-Way Furniture Co. 105 F.R.D. 90, 91 (1985), and it helps to narrow issues (Compare Judge Wolf: Transcript 21). But

that motion was avoided by defendants/ Respondants to avoid pointing out:

> the defects complained of and the details desired. F.R.C.P. 12(e)= Md.Rule 2-322(d)

Motions to strike or dismiss are sometimes confused with this (Appendix K-1), 2A Moore's Federal Practice 12-161, nor is it: for want of detail, or a substitute for discovery, or when matters are more or peculiarly within moving party's knowledge; and it should be definite. 2A Moore's 12-130,-141,-152,-160.

5. G & H, supra, 356, also marks a movement from over-precise rhetoric to fairer flexibility in form, seeming to learn from the federal forum. And in this case there were good faith efforts and no serious ommissions above or below, unlike Jacobs v. Adams 66 Md. App 779 (1986), and like Joplin v. Southwestern Bell Tel., 671 F2nd 1274 (1982), Gillibeau v. City

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of Richmond, 417 F. 2nd 426 (1969).

6. It seems strange that the opposition (and the courts) have claimed both superior understanding and lack of it in these proceedings, Innovative Digital Equiipment v. Quantum Technology, 597 f. Supp. 983, 988 (1984). Truly,

> ...practice and procedure often affect substantive rights and the 'liberties of the subject' in a most fundamental way.
> G. Liebman, Maryland Practice, XIV (1984)

Respectfully submitted,

Arthur Kungle Jr Pro se
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Annapolis, Md 21404

Certificate of Service

This is to certify that on Sept. 11, 1986. 3 copies of this were sent via 1st class mail to Benjamin Wolman, 14624 Main St, Upper Marlboro, Md 20772, counsel for Respondents.

Arthur Kungle Jr

BEST AV

APPENDIX:

COURT RULES (306 Md. XLVI-XLVII, 1986)

TITLE 2 -- CHAPTER 300. PLEADINGS AND MOTIONS

AMEND Rule 2-322 to clarify that the court is not limited to granting or denying dismissal when ruling on a motion to dismiss and to specify when a plaintiff may file an amended complaint after the original complaint is dismissed, as follows:

RULE 2-322. PRELIMINARY MOTIONS

. . . . .

(b) Permissive. The following defenses may be made by motion to dismiss filed before the answer, if an answer is required: (1) lack of jurisdiction over the subject matter, (2) faiure to state a claim upon which relief can be granted. (3) failure to join a party under Rule 2-211, and (4) governmental immunity. If not so made, these defenses and objections may be made in the answer, or in any other appropriate manner after answer is filed. / If, on a motion to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 2-501, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 2-501./

(c)/ Preliminary Determination/ Disposition. A motion under sections (a) and (b) of this Rule shall be determined

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before trial, except that a court may defer the determination of the defense of failure to state a claim upon which relief can be granted until the trial. In disposing of the motion, the court may dismiss the action or grant such lesser or different relief as may be appropriate. If the court orders dismissal, an amended complaint may be filed within 30 days after entry of the order or within such other time as the coourt may fix. If leave to amend is granted and the plaintiff fails to file an amended complaint within the time prescribed, the copurt, on motion,may enter an order dismissing the action. If, on a motion to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 2-501, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 2-501.

(Effective July 1, 1986)